

Special Report

Marine environment: EU protection is wide but not deep



EUROPEAN
COURT
OF AUDITORS

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Executive summary

I The European Union's (EU) seas are vast, with a wealth of habitats and species. The EU has a policy of protecting the marine environment and using marine resources sustainably. Scientists and policy makers have recognised that fishing, through resource extraction and damage to the sea floor, is a key pressure on the EU's seas.

II The EU common fisheries policy covers fishing in EU seas, and aims to ensure that fishing activities are environmentally sustainable. The Commission has a greater role in the conservation of marine biological resources than for environmental policies, where the Commission and Member States share responsibility. The most relevant maritime environmental policies are set out in the Marine Strategy Framework Directive, and the Birds and Habitats Directives. EU funding is spread over different funding instruments.

III 2020 was a key year for the EU in terms of meeting objectives for the marine environment, and 2021 will see a conference meeting on the United Nations Convention on Biodiversity. Our report can help inform future policy discussions.

IV This audit examined whether the EU framework addressing the main pressures on marine biodiversity and habitats was well designed and applied in practice in selected parts of the Atlantic and Mediterranean, and whether results flowed from the use of EU funds.

V We found that overall, while a framework was in place to protect the marine environment, the EU's actions had not restored seas to good environmental status, nor fishing to sustainable levels in all seas: this assessment is supported by a report by the European Environment Agency, published as we concluded our audit work, which identified that "Marine biodiversity remains under threat in Europe's seas. A high proportion of marine species and habitats' assessments continue to show an 'unfavourable conservation status' or a status that is 'unknown'". While we found that EU action had resulted in measurable progress in the Atlantic, the Mediterranean remained significantly overfished; and a small share of the European Maritime and Fisheries Fund was used to support marine conservation.

VI In particular we found:

- (a) EU protection rules have not led to the recovery of significant ecosystems and habitats. The network of marine protected areas was not representative of the EU's diverse seas and sometimes provided little protection. In practice, the provisions to coordinate fisheries policy with environmental policy had not worked as intended, and the species and habitats protected by birds and habitats directives were based on outdated threat assessments.
- (b) In the Atlantic, where fisheries management is mostly linked to limits on allowable catches, there was measureable improvement. The majority of fish stocks were fished sustainably. However many stocks were still overfished.
- (c) In the Mediterranean, where fisheries management is mostly linked to limits on fishing effort (and not catches), fishing rates were at twice sustainable levels.
- (d) The Member States we visited used 6 % of their funding through the European Maritime and Fisheries Fund on measures directly related to conservation measures, and a further 8 % on measures indirectly related to conservation measures; and we saw good examples of projects funded with LIFE and Interreg.

VII Based on these findings, we make recommendations aimed at:

- (1) identifying the regulatory and administrative changes necessary to protect sensitive species and habitats,
- (2) improving protection measures in the Mediterranean, and
- (3) increasing the potential of EU funding.

Introduction

The EU's seas and oceans

01 The European Union (EU) is committed to promote the sustainable use of the oceans and protect marine ecosystems. The EU as a body and its Member States individually are parties to several international agreements relevant to the protection of marine habitats and species. These include conventions on the [Law of the sea](#), [Biological Diversity](#), [Migratory Species of Wild Animals \(Bonn Convention\)](#), and the [Conservation of European Wildlife and Natural Habitats \(Bern Convention\)](#). Regional sea conventions and regional fisheries management organisations (RFMOs) also have a key role.

02 In 2015, the UN adopted [Sustainable Development Goals](#), setting targets related to “life below water” (see [Box 1](#)). The EU is committed to meeting these goals in its seas.

Box 1

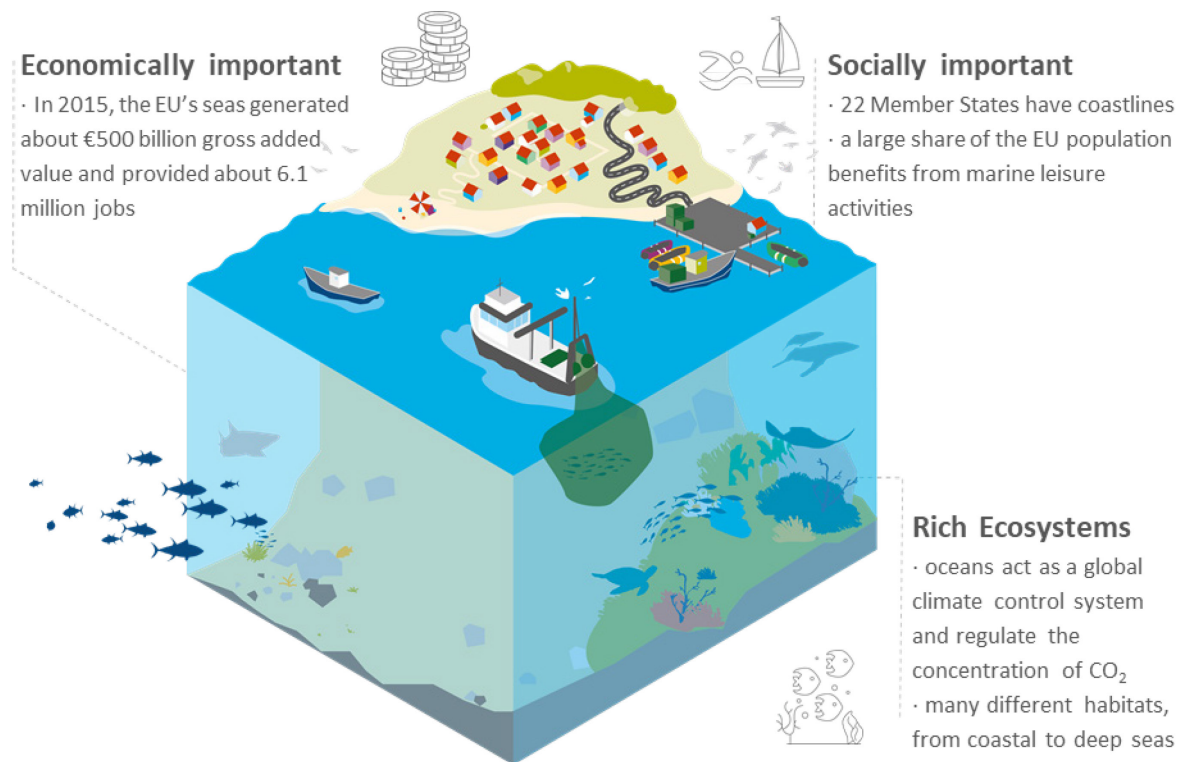
UN Sustainable Development Goal 14: life below water

This goal aims to conserve and sustainably use the seas and marine resources. It covers:

- Achieving the Aichi target to, by 2020, cover 10 % of marine waters through protected areas or other effective conservation measures;
- ending overfishing, illegal, unreported and unregulated fishing and destructive fishing practices by 2020;
- prohibiting certain forms of fishing subsidies by 2020; and
- allowing access to marine resources and markets for small-scale, artisanal fishers.

03 The EU's seas are vast (the term "seas" is used in this report to cover both the Atlantic Ocean and other seas). They contain a wealth of habitats and species and are economically, socially and environmentally important for the EU as shown in *Figure 1*.

Figure 1 – Importance of EU's seas



Sources: ECA based on DG ENV website and "State of Europe's Seas", EEA, 2015.

04 The Treaty on the Functioning of the European Union (TFEU) requires the EU to integrate environmental protection and sustainable development into its policies¹.

¹ TFEU Articles 7 and 11.

05 In accordance with the TFEU, the EU has exclusive competence over the conservation of marine biological resources through its common fisheries policy² (CFP). The Commission and the Member States³ share responsibility for environmental policies, the most relevant of which for the seas are set out in directives: the Marine Strategy Framework Directive⁴ (MSFD) and the Birds and Habitats Directives⁵ (BHDs).

06 The European Environment Agency (EEA) reported in 2015 on the poor state of many marine species and habitats and it concluded that it could not consider Europe's seas as 'healthy' or 'clean'⁶. In 2020, the EEA reported that loss of marine biodiversity in Europe's seas had not been halted, with a high proportion of marine species and habitats assessments showing an unfavourable conservation status or a status that was unknown⁷. [Figure 2](#) shows the EEA's classification of biodiversity condition in Europe's seas.

² TFEU Article 3: "1. The Union shall have exclusive competence in the following areas: (...) the conservation of marine biological resources under the common fisheries policy".

³ TFEU Article 4: "2. Shared competence between the Union and the Member States applies in the following principal areas: (...) (e) environment".

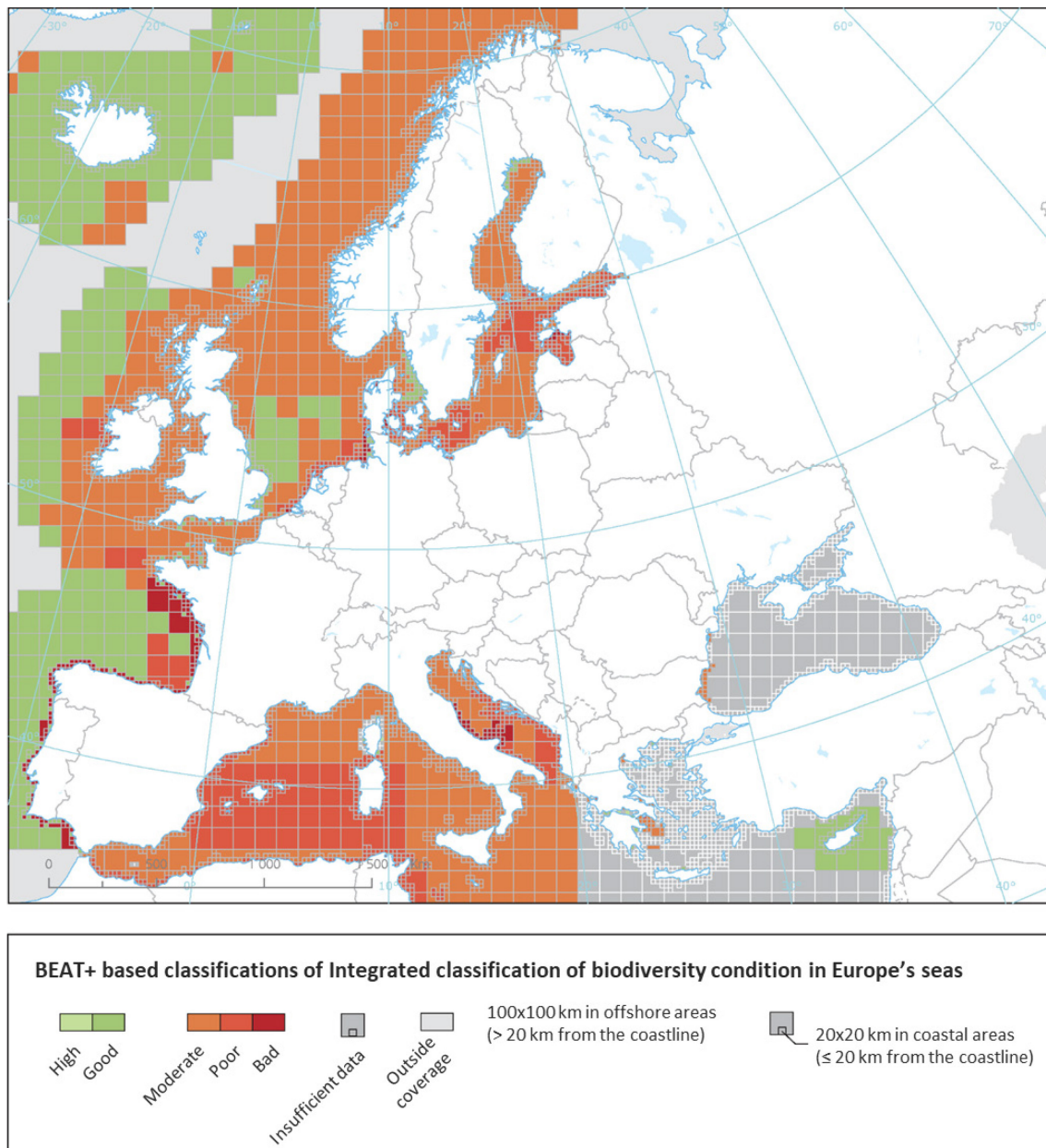
⁴ Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive). OJ L 164, 25.6.2008.

⁵ Respectively, Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds and Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora.

⁶ EEA: [State of Europe's Seas](#), 2015.

⁷ EEA Report No 17/2019: [Marine messages II, Navigating the course towards clean, healthy and productive seas through implementation of an ecosystem-based approach](#), 2020.

Figure 2 – The EEA’s classification of biodiversity condition in Europe’s seas



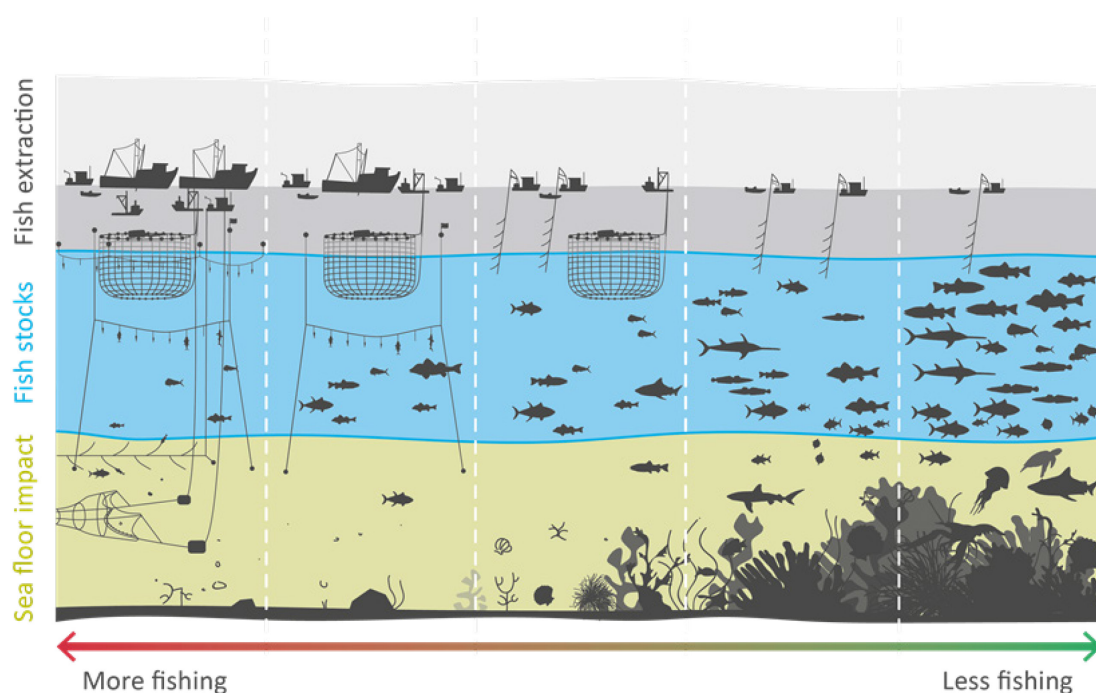
Source: © European Environment Agency, EEA Report, Marine messages II, 2020, Figure 3.1, p. 27.

07 Fishing, through resource extraction and damage to the sea floor, is one of the key pressures on the marine environment. The European Environment Agency reported in 2020⁸ that fishing activities were responsible for some of the main pressures on ecosystems in Europe’s seas, and the Intergovernmental Science Policy

⁸ EEA Report 17/2019: Marine messages II, Figure 4.1.

Platform on Biodiversity and Ecosystems Services reported in 2019⁹ that fishing had the largest impact on marine ecosystems. The Food and Agriculture Organization (FAO) of the United Nations notes that “trawlers have dramatic effects on the ecosystem including physical damage to the seabed (...), the overfishing of demersal resources, (...) the huge amount of bycatches and associated discards”¹⁰. **Figure 3** illustrates the relationship between fishing and conservation, and **Annex I** briefly describes some fishing techniques.

Figure 3 – Impacts of overfishing



Source: ECA.

08 Fishing may involve the bycatch of vulnerable species (such as sharks), or of marine mammals, seabirds, and turtles. Climate change, pollution, coastal development, seafloor disturbance, and the spread of non-indigenous species also have an impact on marine biodiversity. In 2015, the International Union for Conservation of Nature (IUCN) reported that 7.5 % of European marine fish species were threatened with extinction, and that insufficient scientific information was available to evaluate the risk of extinction for a further 20.6 % of fish species¹¹.

⁹ IPBES 2019: Global assessment report on biodiversity and ecosystem services.

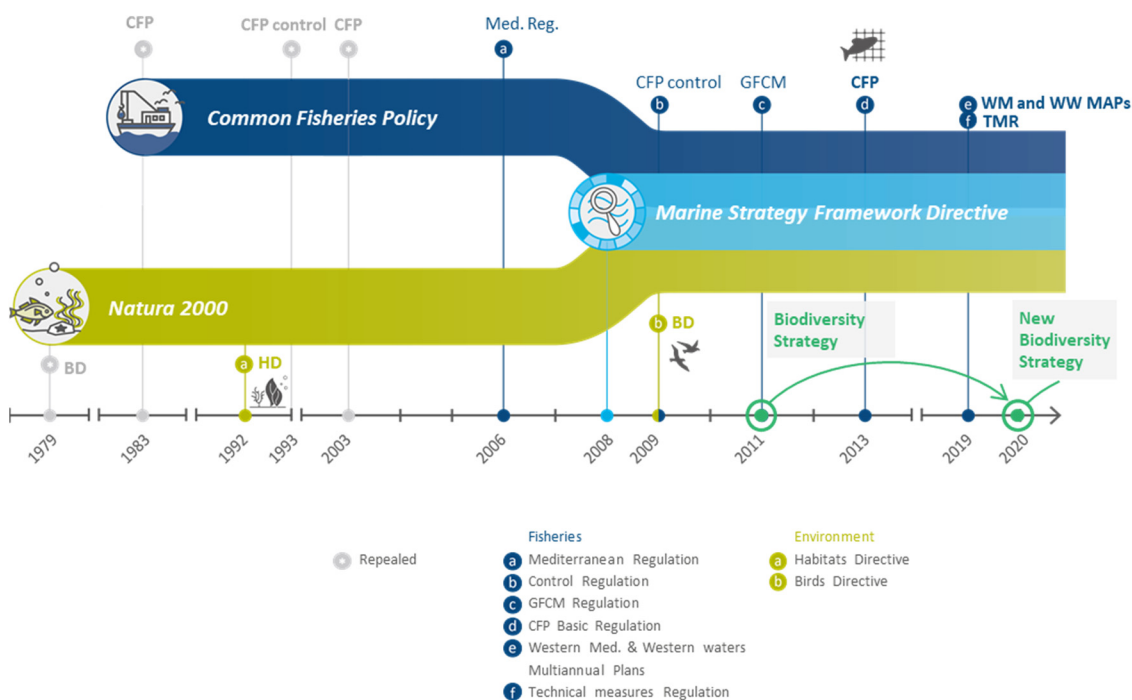
¹⁰ See FAO study: “Ecosystem Effects of Fishing in the Mediterranean: An Analysis of the Major Threats of Fishing Gear and Practices to Biodiversity and Marine Habits”, 2004.

¹¹ IUCN: “European Red List of Marine Fishes”, 2015.

EU action

09 The EU has a framework in place to protect the marine environment. This includes various environmental directives, and regulations about fishing. *Figure 4* gives an overview of the EU policies most relevant for this audit.

Figure 4 – Policy overview



Source: ECA.

Common fisheries policy

10 The common fisheries policy (CFP)¹² sets the rules for EU fisheries. It also aims to ensure that fishing activities are environmentally sustainable and to minimise their negative impacts on the marine ecosystem¹³. The CFP aims to ensure that by 2020, the rate of fishing will not exceed “maximum sustainable yield”¹⁴ (see *Box 2*).

¹² Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy. OJ L 354, 28.12.2013. This regulation is the basic act of the policy complemented by many other legal acts. For simplification purposes, we will refer to this Regulation as “CFP”.

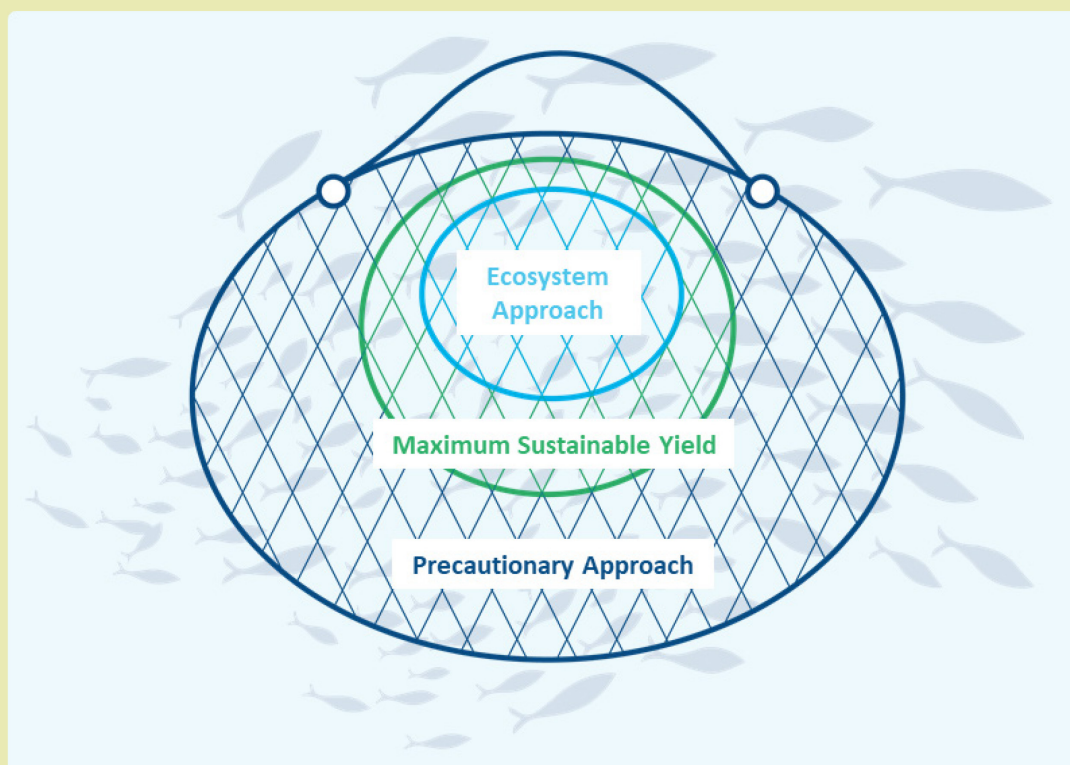
¹³ CFP Article 2.

¹⁴ CFP Article 2, 1 and 2.

Box 2

Maximum Sustainable Yield (MSY)

Applying MSY should achieve high levels of catches while maintaining productive fish stocks within healthy marine ecosystems: if fish are caught above this level, then fish stocks decline. Applying MSY involves keeping fish stocks at higher levels than the “precautionary approach” required by the UN’s Conference on Environment and Development and its Fish Stocks Agreement. The precautionary approach aims at keeping fish stocks above safe biological limits and is a necessary, but not a sufficient condition for MSY. Both the precautionary approach and MSY are nested within the ecosystem approach to fisheries management, and involve taking decreasing levels of fish catches:



Source: ECA based on ICES Advice basis, June 2012 (ICES, 2012. Report of the ICES Advisory Committee 2012. ICES Advice, 2012. Book 1.).

11 The CFP had the objective of achieving MSY “by 2015 where possible and, on a progressive, incremental basis at the latest by 2020 for all stocks.” In 2019, the EEA considered it unlikely that the EU would meet its 2020 CFP policy objective in the Mediterranean¹⁵.

¹⁵ EEA: “Status of marine fish and shellfish stocks in European seas”, 2019.

12 Subject to the rules of the CFP, EU fishing vessels can fish in all EU seas. In coastal waters, Member States manage access under a temporary exception that has been successively renewed since 1983¹⁶.

13 EU fisheries management is organised differently in the Atlantic and the Mediterranean: in the Atlantic, a quota system mostly applies; while the Mediterranean is mostly ruled by a fishing effort regime. For the Atlantic, every year, the EU sets catch limits, designated as “Total Allowable Catches” (TACs) and allocates them¹⁷ between Member State and by fishing zone. In the Mediterranean, two EU Regulations additionally apply: the Mediterranean Regulation (“MedReg”)¹⁸ and the Regulation for fishing in the General Fisheries Commission for the Mediterranean Agreement area (“GFCM Regulation”)¹⁹, containing management and technical measures. **Box 3** gives an example of TACs and fishing effort.

¹⁶ CFP Article 5.

¹⁷ For 2020 fishing opportunities, see Council Regulation (EU) 2020/123 of 27 January 2020 fixing for 2020 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters OJ L 25, 30.1.2020.

¹⁸ Council Regulation (EC) No 1967/2006 of 21 December 2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea. OJ L 409, 30.12.2006.

¹⁹ Regulation (EU) No 1343/2011 of the European Parliament and the Council of 13 December 2011 on certain provisions for fishing in the GFCM (General Fisheries Commission for the Mediterranean) agreement area. OJ L 347, 30.12.2011.

Box 3

“Total allowable catches” compared with “fishing effort”

In January 2020, the Council set the **total allowable catches** for certain fish stocks in the Atlantic for 2020. These included 922 064 tonnes of Mackerel (*Scomber scombrus*) shared between 14 EU Member States, Norway and the Faroe Islands, by defined sea areas. There were no limits on fishing boats’ days at sea for this stock.

In December 2019, the Council set maximum allowable **fishing effort** for certain fish stocks in the Mediterranean and Black seas for 2020. This included a maximum of 108 349 days at sea for Italian fishing boats, and 39 257 days for Croatian boats, to fish European hake, deep-water rose shrimp, Norway lobster, and red mullet in the Adriatic Sea. There were no limits on catches for these stocks.

14 Until 2019, when the EU multiannual management plan (MAP) for the Western Mediterranean entered into force and the GFCM MAP for Adriatic demersal stocks was adopted, national management plans set effort limitations by Member State and there was no framework for monitoring effort reduction at EU level.

15 The EU, its Mediterranean Member States, and other Mediterranean nations are parties to the GFCM. The objectives of the GFCM include ensuring the conservation and sustainable use of living marine resources in the Mediterranean Sea²⁰. In 2017, GFCM parties including the EU signed the [Ministerial Declaration MedFish4Ever](#)²¹.

Environmental policies

EU marine protected areas (Natura 2000)

16 The Birds Directive (1979) and the Habitats Directives (1992) aim to protect threatened species and habitats across the EU and together create the “Natura 2000” network of protected areas. Member States designate and manage Natura 2000 sites.

²⁰ GFCM Article 2: “The objective of the Agreement is to ensure the conservation and sustainable use, at the biological, social, economic and environmental level, of living marine resources, (...) in the area of application”.

²¹ [Ministerial conference on the sustainability of Mediterranean fisheries 2017, Malta Medfish4ever ministerial declaration](#). Egypt did not sign this declaration.

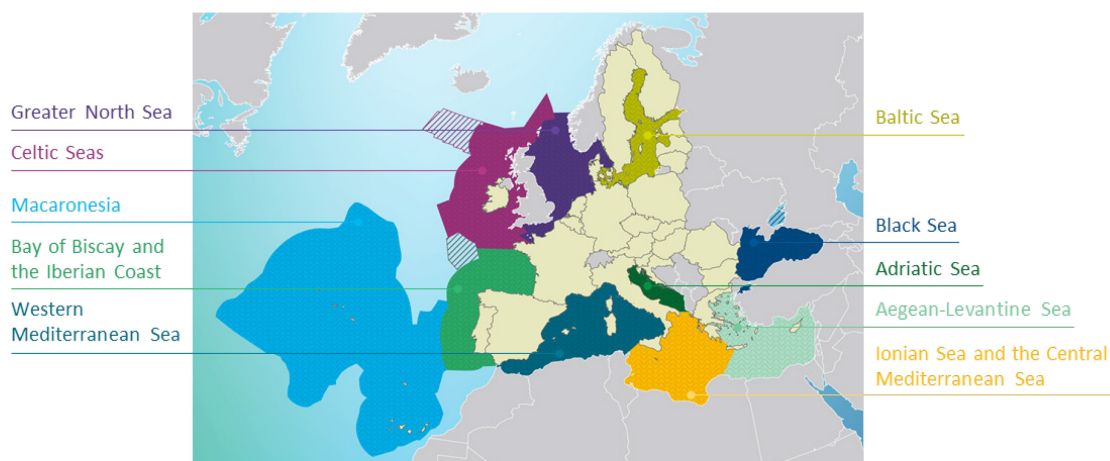
Protected areas at sea are referred to as marine protected areas (MPAs). At the end of 2019, there were more than 3 000 such MPAs.

Marine Strategy Framework Directive (MSFD)

17 In 2007, the Commission adopted an integrated maritime policy²², which seeks to strengthen coordination between different policy areas. The 2008 MSFD is the environmental pillar of this policy.

18 The MSFD establishes marine regions and sub-regions (see [Figure 5](#)) and requires Member States to achieve “good environmental status” (GES) in their seas by 2020²³. Member States must implement strategies for their seas, in cooperation with other Member States sharing a marine region or sub-region.

Figure 5 – MSFD marine regions and sub-regions



Source: ECA based on the technical document *Delineation of the MSFD Article 4 marine regions and subregions*.

19 Member States had to assess their marine waters against 11 qualitative descriptors (see [Box 4](#)) and put forward monitoring programmes and measures to achieve GES by 2020.

²² COM(2007) 575 final of 10 October 2007: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, “An Integrated Maritime Policy for the European Union”.

²³ MSFD Article 1.

Box 4**Summary of qualitative descriptors for determining good environmental status**

- (1) Biological diversity is maintained.
- (2) Non-indigenous species are at levels that do not adversely alter the ecosystems.
- (3) Populations of all commercially exploited fish and shellfish are within safe biological limits.
- (4) All elements of the marine food webs, to the extent that they are known, are capable of ensuring the long-term abundance of the species.
- (5) Human-induced eutrophication is minimised.
- (6) Sea-floor integrity is at a level that ensures that ecosystems are safeguarded.
- (7) Permanent alteration of hydrographical conditions does not adversely affect marine ecosystems.
- (8) Concentrations of contaminants are not at harmful levels.
- (9) Contaminants in fish and other seafood are low.
- (10) Marine litter does not cause harm.
- (11) Introduction of energy, including underwater noise, does not adversely affect the marine environment.

20 In 2018, the Commission concluded²⁴ that improvements were needed for all programmes of measures, and that achieving GES by 2020 across all marine regions and for all descriptors was unlikely²⁵. In 2020, the Commission recognised²⁶ that

²⁴ COM(2018) 562 final of 31 July 2018: Report from the Commission to the European Parliament and the Council assessing Member States' programmes of measures under the Marine Strategy Framework Directive.

²⁵ COM(2018) 562 final of 31 July 2018: [Report from the Commission to the European Parliament and of the Council assessing Member States' programmes of measures under the Marine Strategy Framework Directive.](#)

²⁶ COM(2020) 259 final of 25 June 2020: [Report on the from the Commission to the European Parliament and the Council on the implementation of the Marine Strategy Framework Directive.](#)

progress in reaching good environmental status had not been fast enough, and identified critical areas for improvement.

Biodiversity Strategies

21 In 2011, the Commission adopted a communication on biodiversity strategy up to 2020²⁷, which set the target of halting biodiversity loss and the degradation of the EU's land and marine ecosystem by 2020. In 2015, the mid-term review of the strategy recognised that marine species and ecosystems were still declining in the EU's seas and that the Natura 2000 marine network remained incomplete²⁸. In May 2020, the Commission issued a new [Biodiversity Strategy](#). It aims to protect at least 30 % of its sea area by 2030, and to strictly protect at least 10 %.

Commission and Member State responsibilities

22 As the conservation of marine biological resources is an exclusive EU competence, the Commission has a greater role in this area than for the marine environment, where responsibilities are shared with the Member States. The Commission proposes Regulations for managing fisheries (notably relating to allowable catches, fishing methods and controls, and funding). The Commission oversees Member States' implementation for both policy areas: Directorate-General for Maritime Affairs and Fisheries (DG MARE) for fisheries, and Directorate-General for Environment (DG ENV) for the marine environment. The Scientific, Technical and Economic Committee for Fisheries (STECF) is a pool of experts that advises the Commission on fisheries management; and the International Council for the Exploration of the Sea (ICES) is an intergovernmental marine research body in the North Atlantic that provides scientific advice to the Commission.

23 [Table 1](#) illustrates how responsibilities for environmental and fisheries policies are split between the Commission and the Member States in different marine areas. Member States are responsible for measures to implement environmental directives, and for applying the rules set out in the CFP. These include the right to take protective measures in its marine waters (for example, by using CFP Articles 11 and 20).

²⁷ COM(2011) 244 of 3 May 2011: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "[Our life insurance, our natural capital: an EU biodiversity strategy to 2020](#)".

²⁸ COM(2015) 478 final of 2 October 2015: Report from the Commission to the European Parliament and the Council "[The mid-term review on the EU Biodiversity Strategy to 2020](#)".

Table 1 – Responsibilities for environmental and fisheries policies

		Fisheries	Environment
12 nautical miles (nm) 100 nm in Macaronesia ^(a)	Territorial waters	Member States ^(b) European Union ^(c)	Coastal Member States
12-200 nm 100-200 nm in Macaronesia	Declared EEZs	European Union	Coastal Member States
Other areas ^(d)	Areas beyond EEZs	RFMOs ^(e)	RSCs and RFMOs (if international waters) Member States (if sovereign)

^(a) This rule applies to all EU outermost regions.

^(b) Member States regulate access of fishing vessels to these waters under a temporary exception

^(c) The CFP gives competences to the EU all over EU waters

^(d) CFP rules apply to EU vessels and EU nationals in international waters

^(e) The GFCM is competent for territorial, EEZ and international waters in the Mediterranean and Black seas

Source: ECA.

EU funding

24 EU funding can support marine environment protection through several instruments (such as the European Maritime and Fisheries Fund (EMFF), the LIFE and Interreg programmes), but none is specific for marine protection. Under Article 6 of Regulation 508/2014, the scope of the EMFF includes support for the CFP for the conservation of marine biological resources. The Commission does not explicitly report on total EU funding dedicated to the marine environment.

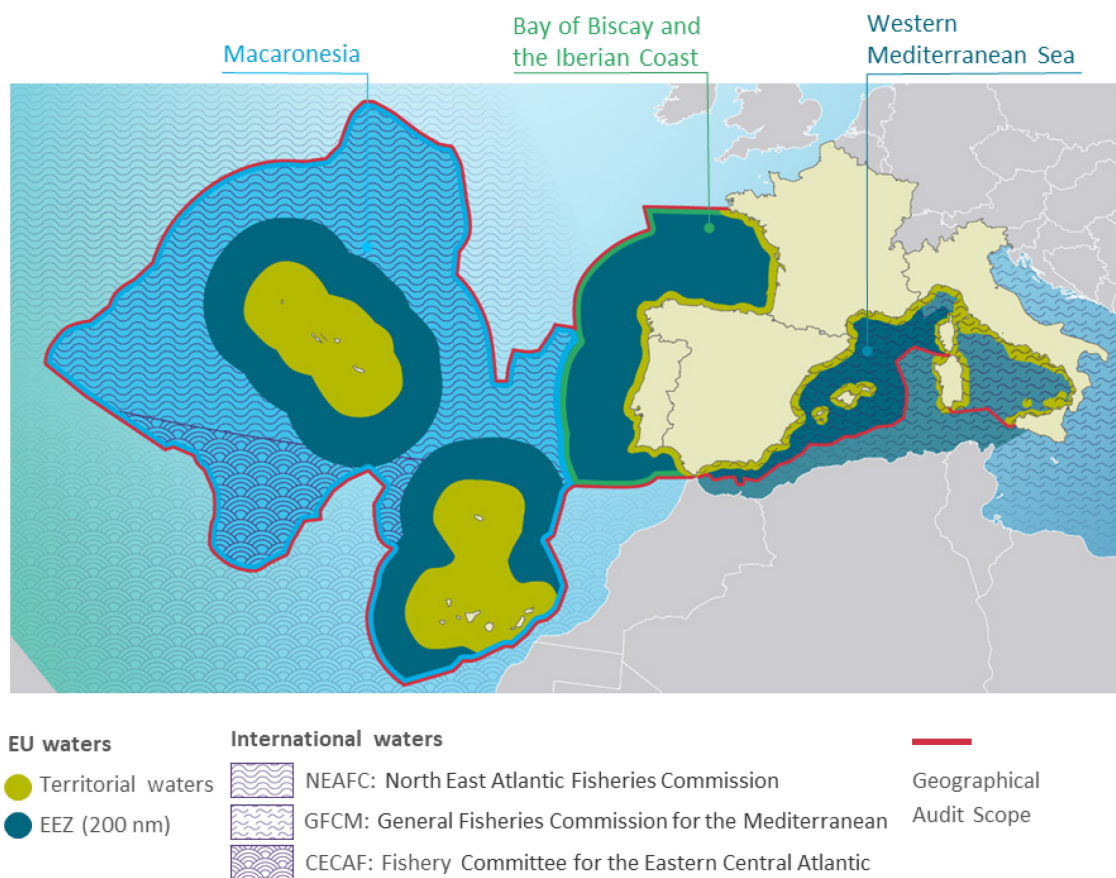
Audit scope and approach

25 We looked at the EU policy and spending framework and how it addressed the main pressures on marine biodiversity and habitats, focusing on pressure from commercial fishing. We examined whether:

- o the EU framework was well designed and applied by the Commission and Member States,
- o progress had been made in the Atlantic and the Mediterranean, and
- o the Commission and Member States achieved results from using EU funds.

26 Our audit covered the period from the adoption of the MSFD in 2008 to 1 March 2020. We focused on the Bay of Biscay and the Iberian Coast, Macaronesia and the Western Mediterranean Sea, and visited the Member States with coastlines on these sea areas – Spain, France, Italy and Portugal. *Figure 6* illustrates the geographical scope of our audit.

Figure 6 – Geographical audit scope



Source: ECA, based on the technical document [Delineation of the MSFD Article 4 marine regions and subregions](#).

27 Our audit did not cover the Maritime Spatial Planning Directive²⁹ and the Blue Growth Strategy as Member States will not report to the Commission on marine spatial planning until 2021.

28 In our audit work we:

- examined the Commission’s proposals, guidelines and relevant reports;
- visited national and regional authorities and representatives from the fishing sector and environmental organisations in Spain, France, Italy and Portugal;
- reviewed EU funding for projects to protect the marine environment and examined such projects and 21 long established marine protected areas with diverse protection objectives from the selected sea areas;

²⁹ Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014 establishing a framework for maritime spatial planning.

- consulted an expert panel to use their expertise to analyse links between environmental and fishing policies;
- reviewed relevant studies and reports, including those by the Scientific, Technical and Economic Committee for Fisheries (STECF) and the European Environmental Agency.

29 2020 is a key year for the EU in terms of meeting conservation objectives under the 2011 biodiversity strategy, the CFP and the MSFD. 2021 should see the Conference of Parties to the Convention on Biological Diversity. This report provides analysis of the results to date on the protection of marine biodiversity, and can thus feed into discussion on future options.

Observations

Member States face challenges in applying the EU framework for protecting the marine environment

30 The EU legal framework requires Member States to protect the marine environment. We examined whether the EU framework was set up and applied to facilitate this. To that end, we examined whether the framework provided effective tools to protect sea areas, set a clear basis for action, was integrated with other policy areas impacting the marine environment, and was based on up to date scientific advice identifying the species and habitats most in danger.

EU marine protected areas provide limited protection in practice

31 The Commission defines MPAs as marine areas created with a primary objective of nature conservation. To be effective MPAs need to have clear objectives with well-managed actions based on best available science³⁰. The MSFD requires Member States to include in their strategies spatial protection measures, contributing to coherent and representative networks of marine protected areas³¹.

32 MPAs cover many conservation objectives through a variety of protective measures, which can include fishing restrictions. Member States apply several levels of fishing restrictions within MPAs (see [Box 5](#) for an example). In 2018, the EEA concluded that the MPA network was not ecologically representative³².

³⁰ COM(2015) 481 final of 1 October 2015: [Report from the Commission to the European Parliament and the Council on the progress in establishing marine protected areas \(as required by Article 21 of the Marine Strategy Framework Directive 2008/56/EC\)](#).

³¹ Article 13(4).

³² EEA: [“Marine Protected Areas: Designed to conserve Europe's marine life, marine protected areas are a globally recognised tool for managing and enhancing our marine ecosystems”](#), 2018.

Box 5

Different protection levels in the Cinque Terre MPA (Italy)

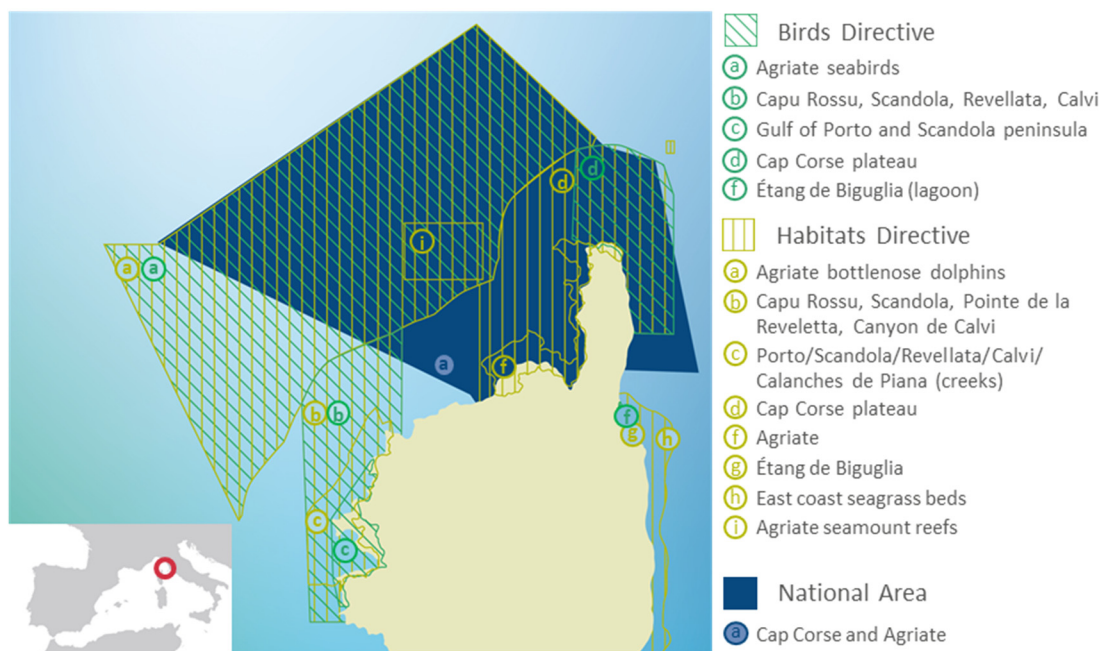


Source: ECA, adapted from an original image © Ente Parco Nazionale delle Cinque Terre.

The MPA covers 4 554 ha, with three layers of protection. Zone A (no fishing) covers only 104 ha (2.3 % of the MPA). In zones B and C, local fishermen are authorised to fish with the prior authorisation of the managing authority. Zone C is a buffer zone between the areas of greatest interest for biodiversity and the areas outside the MPA with less stringent restrictions.

33 MPAs do not qualify for EU designation under the Natura 2000 network unless they refer to habitats or species listed in the BHDs. Designated MPAs often overlap each other and with national protected areas. *Figure 7* shows how these areas may interrelate.

Figure 7 – Protected areas in North Corsica (France)



Sources: INPN, Cartographie des espaces naturels ou protégés: <https://inpn.mnhn.fr/viewer-carto/espaces/I056FR9100008> and Natura 2000 Network Viewer: <https://natura2000.eea.europa.eu/>.

34 Where MPAs address fishing pressures, they provide varying levels of protection. We examined how Member States' legal provisions protected 21 long-established Natura 2000 MPAs (see *Annex II*), and found that:

- Three (14 %) involved fishing bans in most of the protected area (MPA);
- Nine (43 %) had some restrictions to fishing activities – prohibiting certain fishing methods; requiring authorisations; or allowing fishing in most of the MPA and
- In nine MPAs (43 %), Member States had imposed little or no specific restrictions on fishing activities.

35 EU legislation does not require MPAs to have management plans but the OECD³³ has identified them as a good practice. Management plans define the actions needed to protect MPAs and the responsible authorities for doing so. Just over half of the MPAs we examined had such plans. In 2019, the World Wide Fund for Nature (WWF)³⁴ reported that while MPAs covered 12.4 % of EU marine area, only 1.8 % was covered

³³ Marine Protected Areas Economics, Management and Effective Policy Mixes <https://www.oecd.org/environment/resources/Marine-Protected-Areas-Policy-Highlights.pdf>.

³⁴ WWF: *Protecting Our Ocean - Europe's Challenges to Meet the 2020 Deadlines*, 2019.

by MPA management plans. In 2020, the EEA reported that less than 1 % of European MPAs could be considered marine reserves with full protection (e.g. through fishing bans), and that management of MPAs needed to be strengthened³⁵.

36 Member States may use MPAs to protect marine areas against a wide range of pressures other than fishing (such as dredging, mining, oil and gas exploration, industrial discharges, anchoring, shipping or underwater cables).

37 In 2019, a scientific study³⁶ concluded that 59 % of the MPAs analysed were commercially trawled at levels higher than non-protected areas, and that many MPAs did not protect vulnerable species. The study noted that “much of the EU’s spatially impressive MPA network provides a false sense of security about positive conservation actions being taken”. Where MPAs involved fishing restrictions, we found examples of additional protection practices (see [Box 6](#)).

³⁵ EEA: Marine messages II, Box 3.2, 2020.

³⁶ Dureuil et al.: “Elevated trawling inside protected areas undermines conservation outcomes in a global fishing hot spot”, *Science*, Vol. 362, Issue 6421, pp. 1403-1407, 2018.

Box 6

Marine protected areas (MPAs) and protection from fishing

In the Cinque Terre MPA (Italy), although fishing bans exist, managers were aware of frequent episodes of illegal trawling inside the protected area. In 2009, they positioned anti-trawl bollards (see Picture) to reduce illegal fishing. These trawl bollards block the trawl and tangle the nets.



Source: © Parco Nazionale delle Cinque Terre.

38 In 2018, the EEA reported³⁷ that the EU had met the spatial coverage target of designating a minimum of 10 % of its waters as MPAs by 2020, but that protected areas were skewed towards coastal waters and did not sufficiently cover the deep sea. It concluded that the MPA network was still not representative of the full range of biodiversity in the areas covered and that marine biodiversity needed better protection³⁸. In 2020, the Commission estimated that less than 1 % of marine areas were strictly protected in the EU³⁹.

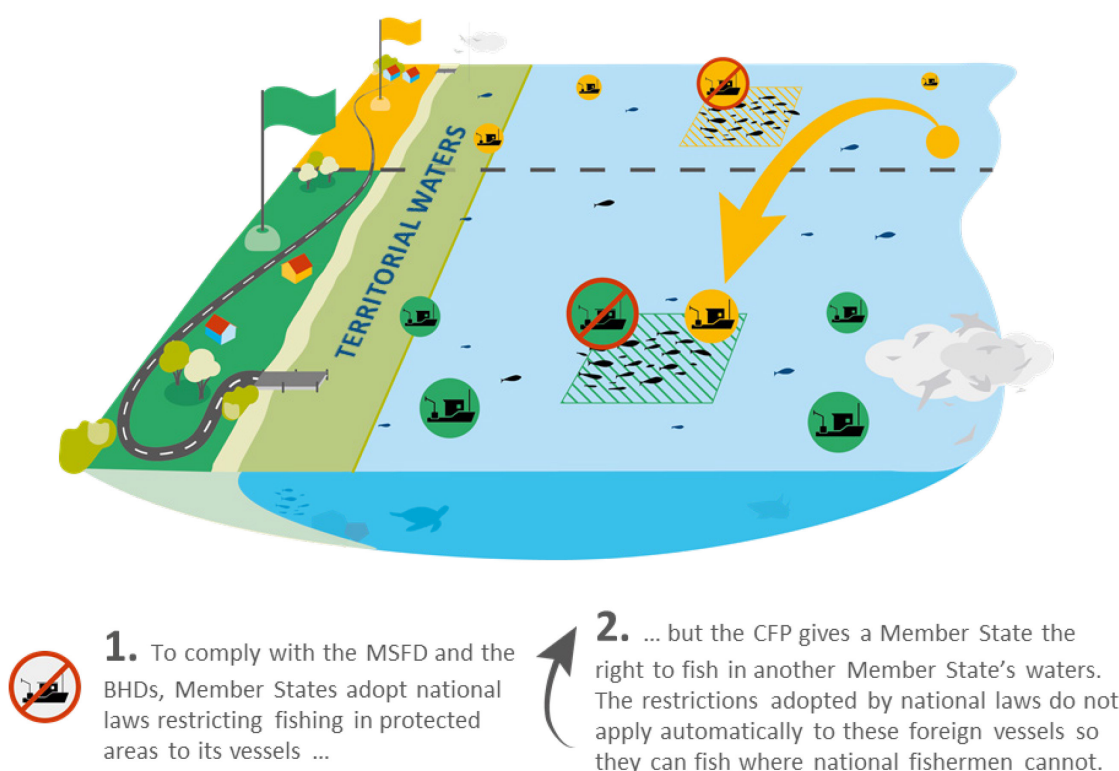
³⁷ EEA: “EU reaches the Aichi target of protecting ten percent of Europe's seas”, 2018.

³⁸ EEA: “Marine Protected Areas”, 2018.

³⁹ COM(2020) 380 final of 20 May 2020: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. [EU Biodiversity Strategy for 2030. Bringing nature back into our lives.](#)

39 *Table 1* shows the variation in responsibilities for environmental and fisheries policies by type of marine area. Member States must comply with the marine conservation commitments of the MSFD and the BHDs, and to this end, they establish MPAs and impose restrictions on their own fishing vessels. In their territorial waters, they can also restrict access to fishing to vessels that traditionally fish in those waters from ports on the adjacent coast, but cannot do so unilaterally for MPAs outside this coastal zone (see *Figure 8*) and need to engage in multilateral discussions under the CFP.

Figure 8 – MPAs outside coastal zones have reduced protection



Source: ECA.

Regulatory tools linking the EU's marine biodiversity policy with its CFP did not work well in practice

40 EU law for both marine biodiversity and the CFP contains provisions to link the protection of the marine environment (where Member States are mainly responsible) with fisheries conservation measures (of exclusive EU competence). We examined how these provisions worked in practice in the sea areas we examined set out in paragraph 26.

CFP Article 11

41 Member States are responsible for creating marine protecting areas and must comply with conservation commitments under the BHDs and the MSFD. But as fishing is an EU level competence, Article 11 of the CFP allows Member States, when seeking to limit the impacts from fishing vessels from other Member States, to submit joint recommendations to enable the Commission to take measures,.

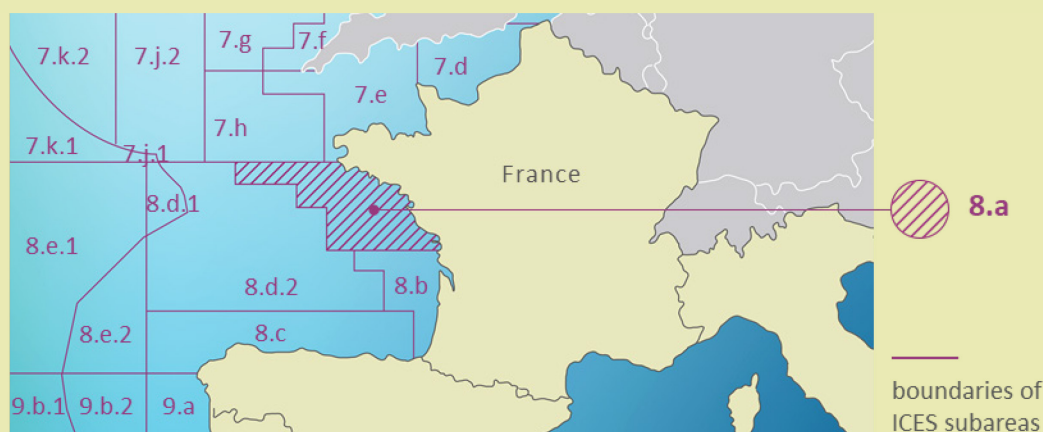
42 The Member States that we visited did not seek to use Article 11 of the CFP. They explained to us that a key reason was that the process, based on joint recommendations followed by Commission delegated legal acts, was complicated to apply and could:

- lead to weaker final restrictions than those initially put forward by the Member State making the proposal,
- require lengthy discussion during which the area would remain open to vessels of other Member States and further damage to sensitive habitats could continue (see example in [Box 7](#)).

Box 7

Example of the difficulties in applying CFP Article 11

If, for example, France needed to impose fishing restrictions to comply with the MSFD in any small zone within its waters of ICES area 8.a (see below), it can apply them to French vessels. To extend the restrictions to all EU vessels, France would have to agree on a joint recommendation with all the other Member States with a direct management interest in the area (the Commission informed us that eight Member States declare catches in area 8a).



Source: ECA, adapted from the [Food and Agriculture Organization of the United Nations](#), Original Scientific Illustrations Archive. Reproduced with permission.

However, there is no time limit for the consulted Member States to react to France's proposal. If and when they react, they may accept a joint recommendation with weaker measures than proposed. If France disagrees, it has to support its request with scientific evidence, and hard evidence of the benefits of protective measures in the marine environment is difficult to demonstrate. The whole process may take several years.

43 The Commission acknowledged that joint recommendations under Article 11 of the CFP “have taken longer to materialise and only cover certain areas in the North Sea and the Baltic Sea”⁴⁰. In seven years, the Commission adopted six joint recommendations related to the North and Baltic Seas⁴¹, none of them inside our geographical audit scope, and none in the Mediterranean. We consider that this procedure is not able to ensure timely protection from fishing for a large number of

⁴⁰ See COM(2019) 274 final of 7 June 2019: [Communication from the Commission to the European Parliament and the Council on the State of Play of the Common Fisheries Policy and Consultation on the Fishing Opportunities for 2020](#).

⁴¹ See https://ec.europa.eu/fisheries/cfp/fishing_rules_en.

Natura 2000 MPAs. We note that the EEA reported in 2020 that the Article 11 procedure often had the consequence that commercial fisheries interests were favoured over nature conservation requirements⁴².

44 In 2018, the Commission proposed extending the definition of fisheries restricted areas to any protected area established by Member States. Empowering them to control fishing activities in those areas⁴³ would simplify the process currently required under Article 11.

MSFD Article 15

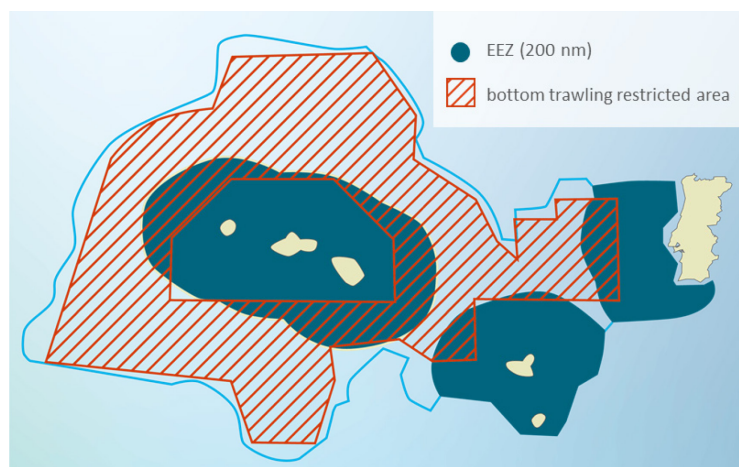
45 When, to meet the MSFD objective of achieving GES in their marine areas, Member States identify measures that go beyond their powers (for example, related to fisheries policy), they can raise the issue at EU level under Article 15 of the MSFD (Recommendations for Community action). Of the four Member States we visited, only Portugal had done so.

46 In 2014, to meet its commitments under the BHDs and MSFD, Portugal banned bottom trawling by its vessels in a large part of its EEZ and continental shelf (see [Figure 9](#)). In July 2015, Portugal asked the Commission to address the NEAFC to extend the ban to other EU and non-EU vessels, under Article 15 of the MSFD. In 2016, the Commission requested Portugal to provide further scientific studies, which the Portuguese authorities told us they did not consider necessary. As a result, Portuguese vessels are not authorised to bottom trawl in that area, while, at the time of our audit, other Member States' vessels continued to do so.

⁴² EEA: Marine messages II, Box 3.2, 2020.

⁴³ COM(2018) 368 final of 30 May 2018: [Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation \(EC\) No 1224/2009, and amending Council Regulations \(EC\) No 768/2005, \(EC\) No 1967/2006, \(EC\) No 1005/2008, and Regulation \(EU\) No 2016/1139 of the European Parliament and of the Council as regards fisheries control.](#)

Figure 9 – Area restricted to Portuguese bottom-trawlers



Source: ECA, adapted from the Portuguese ministerial order nr. 114/2014 (© Ministério do Mar).

EU protection rules have not led to the recovery of significant marine ecosystems and habitats

47 EU law protects specified threatened species and habitats listed in the annexes to the BHDs, while some threatened species (such as sharks) benefit from catch restrictions under the CFP. The MSFD allows Member States to protect threatened species or habitats, leaving to them the decision on which to protect.

48 The EU agreed the BHDs annexes more than 25 years ago and they do not incorporate recent scientific knowledge nor sufficiently cover marine habitats. For example, the Maltese skate (*Leucoraja melitensis*) – a species considered by the IUCN as critically endangered⁴⁴ – and its nursery habitats (sandy and muddy flats below 60 metres) are not covered by the BHDs. These directives contain procedures for updating the lists of protected species and habitats but the Commission has not yet used them⁴⁵.

49 In 2015, the EEA⁴⁶ reported that the nature directives “exclude significant aspects of the marine ecosystem from formal protection schemes”, referring in particular to marine fish (e.g. commercially exploited species), invertebrate species (e.g. mussels

⁴⁴ IUCN: “European Red List of Marine Fishes”, 2015.

⁴⁵ Habitats Directive, Article 19; Birds Directive, Articles 15 and 16.

⁴⁶ EEA report 3/2015: “Marine protected areas in Europe's seas”.

and sea stars) and marine offshore habitats (e.g. sandbanks below 20 m or soft-bottom habitats) and their associated communities of fauna and flora.

50 Adding species to the annexes to the BHDs would make it easier to bring them under the protection of CFP rules. For example, the Mediterranean Regulation (MedReg) prohibits the catch of species listed in the Habitats Directive⁴⁷. Under the MedReg, it remains legal to catch threatened species (e.g. sponges and corals) that are not listed in the Annex of this Directive. Likewise, the Technical Measures Regulation (TMR)⁴⁸ frequently refers to the species listed in the Directive.

51 The EU has taken initiatives to protect sharks (see [Box 8](#)) but has not designated protected areas. In contrast, the United States of America has, since 2006, defined [Essential Fish Habitats for Atlantic Highly Migratory Species](#), including sharks.

Box 8

EU initiatives on shark protection

The CFP prohibits targeted fishing for certain shark species, which should be discarded dead or alive if caught unintentionally.

In 2009, the Commission adopted and the EU Council of Ministers endorsed an Action Plan for the Conservation and Management of Sharks⁴⁹. In 2019, STECF reported signs of progress in the management and conservation of sharks in the past 10 years but it also stressed that the status of many shark populations remained a concern⁵⁰.

Since 2003, the EU has prohibited removing shark fins on board vessels (“shark finning”), one of the main conservation threats facing sharks⁵¹.

⁴⁷ MedReg Article 3.

⁴⁸ Regulation (EU) 2019/1241 of the European Parliament and the Council of 20 June 2019 on the conservation of fisheries resources and the protection of marine ecosystems through technical measures. OJ L 198, 25.7.2019.

⁴⁹ COM(2009) 40 final of 5 February 2009: “[Communication from the Commission to the European Parliament and the Council on a European Community Action Plan for the Conservation and Management of Sharks](#)”.

⁵⁰ STECF 19-17.

⁵¹ Council Regulation 1185/2003 (as amended), of 23 June 2003 on the removal of sharks fins on board vessels. OJ L 167, 4.7.2003.

Progress in the Atlantic but poor results in the Mediterranean

52 The CFP requires the conservation of marine biological resources and the sustainable management of fisheries, by fishing within MSY levels. We examined whether the CFP implementation supported the conservation of marine resources and habitats. In order to achieve that, we note that the CFP should establish measures in accordance with the best available scientific advice to tackle overfishing, and prevent the overexploitation of marine resources by adjusting the capacity of the fishing fleets to levels of catches consistent with fishing sustainably⁵². We consider that the existence of an effective fisheries control system is a critical element.

53 The EEA reported in 2020 that the CFP objective of fishing all stocks within MSY levels by 2020 was unlikely to be met⁵³. The same report noted that despite some levels of uncertainty, “the message is clear – the EU has not succeeded in halting the loss of marine biodiversity by 2020⁵⁴”. *Figure 10* illustrates this together with the insufficient data to assess biodiversity conditions available in many areas.

⁵² CFP Articles 2 and 3.

⁵³ EEA: Marine messages II, 2020, p. 11.

⁵⁴ EEA: Marine messages II, 2020, p. 25.

Figure 10 – Overall biodiversity conditions and trends in Europe’s seas

		North-East Atlantic	Baltic Sea	Mediterranean Sea	Black Sea	European Seas			
		OSPAR	HELCOM	UNEP-MAP and GFCM	BSC and GFCM	Art. 17 Habitats Directive	IUCN Red List	Living Planet Index (LPI)	BEAT+ Worst case BQR
Species groups	Seals	↑	↑	□	□	○	↑	↓	□
	Cetaceans	□	□	□	□	□	□	↑	□
	Birds	↓	↓	□	□	N/A	↓	○	□
	Bony fish	↑	□	□	□	N/A	○	↑	□
	Sharks and rays	□	□	↓	□	N/A	↓	○	□
	Reptiles	□	N/A	□	□	↓	↓	□	□
	Cephalopods	□	N/A	□	N/A	N/A	□	□	□
	Other invertebrates	□	□	□	□	○	□	□	□
Habitats	Pelagic	□	□	□	↓	N/A	□	□	□
	Benthic	□	□	□	○	↓	□	□	□
Ecosystems	IPBES current and past trends	↓	↓	↓	↓				



Notes: UNEP-MAP: United Nations Environment Programme – Mediterranean Action Plan; BSC: Black Sea Commission; BEAT+: a tool to assess spatial variability of biodiversity by combining existing indicators; BQR: Biodiversity Quality Ratio. Other abbreviations are referenced elsewhere in this audit report.

Source: © European Environment Agency, EEA Report: Marine messages II, 2020, Table 3.1, p. 26.

54 In the Atlantic, the CFP has begun to reduce overfishing in recent years. In the Mediterranean, overfishing remains at unsustainably high levels. We examined factors which we consider to have contributed to these mixed conservation results.

Measurable improvement in the Atlantic

55 For stocks where scientific MSY advice is available, the number of total allowable catch (TAC) limits set in line with this advice has increased in recent years⁵⁵. The Commission has concluded that sustainable fishing will cover 99 % of fish caught by volume in 2020; and 73 % of biological stocks.

⁵⁵ Commission staff working document, see p. 9.

56 In 2019, the STECF noted that in the North East Atlantic, on average stock biomass was improving⁵⁶. Stocks in the Iberian coast and the Bay of Biscay showed considerable increase in biomass. However STECF reported that overall, many stocks – for which assessment information was available – remained overfished in 2017 (40 %) or outside safe biological limits (35 %), and progress seemed too slow to achieve MSY by 2020.

57 ICES provides advice for many biological fish stocks. In 2017, the STECF noted that due to data limitations, ICES could not provide an estimate of MSY for more than half of stocks⁵⁷. For the 156 fish stocks subject to quota, ICES could give MSY advice in 86, or 55 %, of cases⁵⁸. ICES applied the precautionary approach in the other cases, which can lead to higher rates of fishing than under MSY (see [Box 2](#)).

58 Reports have shown that the Commission has in the past proposed catch limits which sometimes exceeded the scientific advice it received from ICES. In turn, the Council sometimes increased the limits proposed by the Commission (see [Box 9](#)).

Box 9

Some reports have criticised the fishing catch limits set in the Atlantic

Client Earth’s report “Taking stock – are TACs set to achieve MSY?” from 2019 indicated that the percentage of catch limits where the Commission’s proposal exceeded scientific advice varied between 41 % and 47 % between 2015 and 2019, and the percentage of catch limits agreed by the Council that exceeded scientific advice was higher.

The Pew Charitable Trusts’ report “EU fisheries management improves but still lags behind scientific advice” from 2019 indicated that the percentage of catch limits where the Commission’s proposal exceeded scientific advice was falling over time. The report identified that the percentage of catch limits set by Council that exceeded scientific advice was also falling, but still represented 42 % of stocks in the North East Atlantic in 2019.

⁵⁶ STECF: [Monitoring the performance of the Common Fisheries Policy \(STECF-Adhoc-19-01\)](#). This is a report of an expert group to the STECF from March 2019. Data for years up to 2017. See pp. 7, 11.

⁵⁷ STECF 19-01, p. 11.

⁵⁸ [Commission staff working document accompanying COM\(2019\) 274 final](#), see p. 7.

Numerous EU actions have not reduced overfishing in the Mediterranean

59 STECF concluded in its 2019 report on monitoring the performance of the CFP that fishing stocks in the Mediterranean remained in a poor situation⁵⁹. The Commission assessed that the Mediterranean and Black seas are being exploited at rates 2.2 times higher than those compatible with fishing within MSY levels; and from 2003 to 2016 the fish stock biomass showed no significant increase⁶⁰. The EEA reported in 2020 that only 6 % of assessed stocks in the Mediterranean met with MSY criteria⁶¹.

60 STECF has noted the limitations of the **fishing effort regime** used in the Mediterranean and suggested considering catch-based alternatives (TACs). The Commission proposed such measures in its proposals for EU MAPs in the Western Mediterranean and Adriatic seas, but they were rejected by the co-legislators. STECF has reported that reductions in fishing effort do not automatically translate into fewer catches⁶².

61 STECF estimated that in 2016, the EU small-scale coastal fleet operating in the Mediterranean comprised about 17 500 vessels⁶³. Large vessels catch significantly more fish than small vessels. *Figure 11* shows the approximate share of the total fleet number and total catch weight by small and large vessels.

⁵⁹ STECF-ADhoc-19-01.

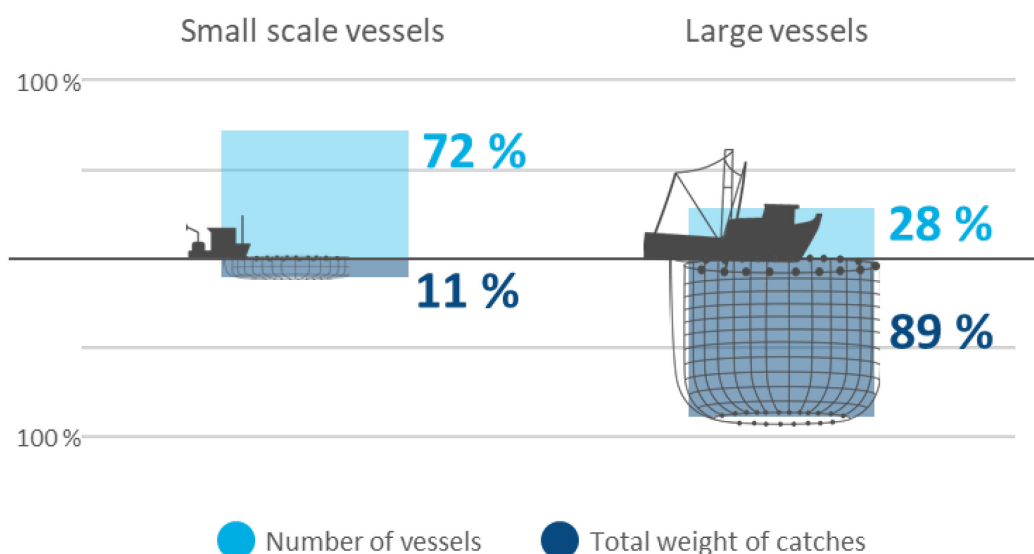
⁶⁰ COM(2019) 274 final of 7 June 2016.

⁶¹ EEA: Marine messages II, 2020, p. 17.

⁶² See STECF Reports: PLEN 17-02, PLEN 18-01, STECF 18-09 and STECF 18-13.

⁶³ STECF: “The 2018 Annual economic report on the EU fishing fleets” (STECF 18-07), p. 163.

Figure 11 – EU vessels in the Mediterranean



Source: ECA (on the basis of information included in STECF 18-07).

62 Member States should monitor landings in their ports and EU laws require that all fisheries products are first marketed or registered at an auction centre or to registered buyers or producer organisations⁶⁴. Consequently, Member States' authorities and landing sites managers should be able to produce comprehensive databases on catches. In 2017, STECF noted progress in Mediterranean stock assessment but that "available data are not reliable enough as fisheries information is often partial and imprecise and time series relatively short"⁶⁵. It further noted that Member State monitoring of the effort levels of a large part of the EU Mediterranean fleet was poor⁶⁶.

63 In 2019, STECF reviewed ex-post 22 **national management plans** adopted under the MedReg. STECF concluded that "the older national management plans under the Mediterranean Regulation have in most cases not contributed to the improvement of the poor status of the Mediterranean stocks". Furthermore, STECF noted that the launching of some of these plans was associated with requests for derogations from provisions of the MedReg⁶⁷.

⁶⁴ See preamble (21) and Article 59 of Council Regulation (EC) No 1224/2009.

⁶⁵ See STECF 17-02.

⁶⁶ See STECF PLEN 17-02.

⁶⁷ See STECF PLEN 19-01.

64 The MedReg seeks to protect nursery areas and **sensitive habitats**⁶⁸. It required Member States to provide the Commission, by 31 December 2007, information relevant to establishing such areas, and the Council, by the end of 2008, to designate, “fishing protected areas occurring essentially beyond the territorial seas of Member States, concerning the types of fishing activities banned or authorised in such areas”. The Member States have not provided this information to the Commission.

65 The EU in 2019 adopted a **multiannual plan** for six species living near the sea-floor in the Western Mediterranean Sea⁶⁹. The plan contains safeguard provisions⁷⁰ to take remedial measures (such as closures) where scientific advice shows stocks are threatened, but there are difficulties in monitoring catches and getting good data (see paragraph 62). The Commission will evaluate the plan in 2024, very close to the target date for achieving MSY fishing levels of 1 January 2025.

66 **Technical measures** are the rules that govern how, when and where commercial fishermen may fish. The EU in 2019 adopted the Technical Measures Regulation (TMR)⁷¹, applicable in all EU waters. One of the objectives of the TMR is that fisheries management should contribute to the implementation of the MSFD and the BHDs⁷².

67 Before the adoption of the TMR, there was no mechanism for monitoring progress. The TMR empowers the Commission to adopt delegated acts, where necessary⁷³ and introduces triennial reporting. The first triennial report is due in 2020.

68 The Mediterranean⁷⁴ and the GFCM⁷⁵ Regulations further contain technical measures that apply only in these areas. The EU is a party to the GFCM but it has the right to adopt stricter rules if it considers that the GFCM measures do not go far

⁶⁸ See preamble (18) and Articles 5 and 6 of Council Regulation (EC) No 1967/2006.

⁶⁹ Regulation (EU) 2019/1022, adopted on 20 June 2019.

⁷⁰ Articles 17 and 6.

⁷¹ Regulation (EU) 2019/1241.

⁷² See Article 3(d).

⁷³ See, for example, Articles 10(4), 12(2), 15(2), 23(1 and 5), 27(7) and 31(4).

⁷⁴ Regulation 1967/2006.

⁷⁵ Regulation 1343/2011.

enough on preventing destructive fishing impacts⁷⁶. There is scope for Technical Measures to contribute more effectively to minimising the negative environmental impact of fisheries on the marine environment in the Mediterranean.

69 Fisheries data is obtained under the control regulation⁷⁷ and under the Data Collection Framework regulation. The Commission's 2017 evaluation of the Control regulation concluded that it was not entirely fit for purpose⁷⁸, prompting the Commission to propose a new one⁷⁹. A particular issue is the exemption from reporting for vessels under 12 metres, and for catches of less than 50 kg. The proposal, which is still in the legislative process, contains provisions strengthening the monitoring of small-scale fisheries and includes the requirement for all vessels to have vessel-tracking systems.

70 So far, the GFCM has established eight fisheries restricted areas (such as the Jabuka / Pomo Pit restricted area) to protect sensitive deep-sea habitats and essential fish habitats – covering about 1 % of the Mediterranean Sea (see [Figure 12](#)). In addition, since 2005, the GFCM has prohibited the use of towed dredges and trawl nets in all waters deeper than 1 000 metres (which represent 59 % of the Mediterranean and Black seas) to protect little-known sea-floor habitats.

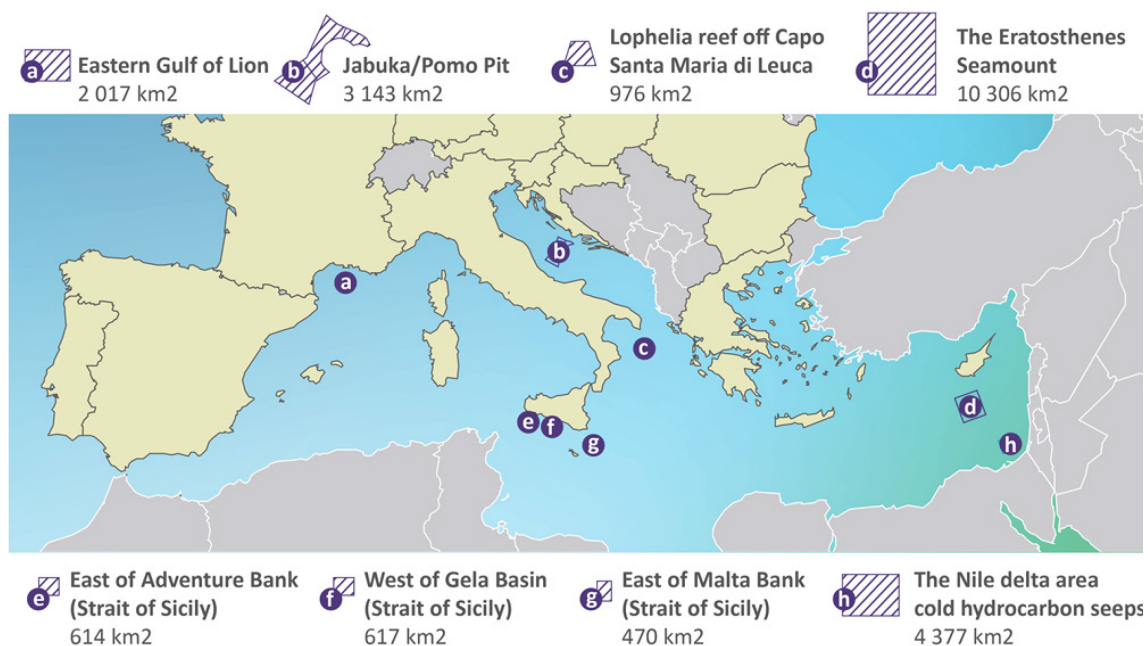
⁷⁶ COM(2007) 604 final of 17 October 2007: Communication from the Commission to the European Parliament, the Council, the European Social and Economic Committee and the Committee of the Regions on “[Destructive fishing practices in the high seas and the protection of vulnerable deep sea ecosystems](#)”.

⁷⁷ STECF PLEN 17-02.

⁷⁸ COM(2017) 192 final of 24 April 2017: Report from the Commission to the European Parliament and the Council on the “[Implementation and evaluation of Regulation \(EC\) 1224/2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy as required under Article 118](#)”.

⁷⁹ COM(2018) 368 final of 30 May 2018.

Figure 12 – GFCM Fisheries Restricted Areas

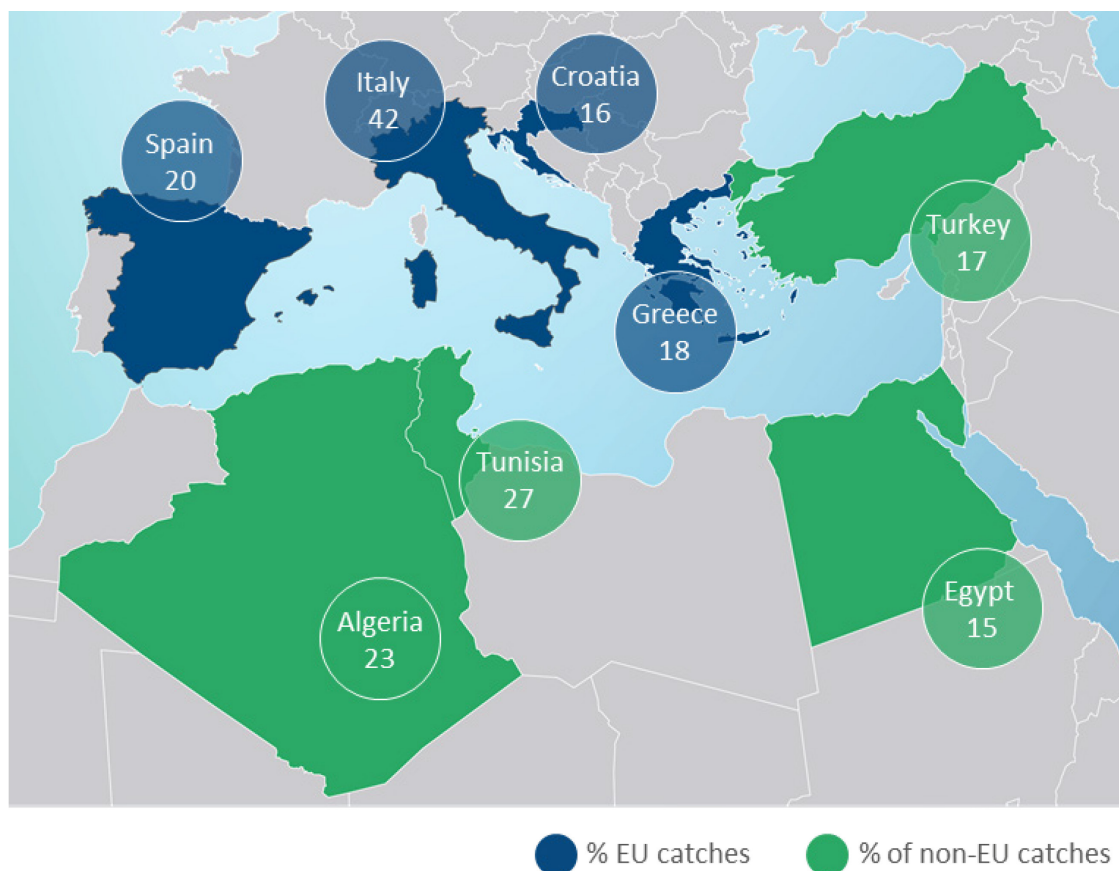


Source: ECA, adapted from the [Food and Agriculture Organization of the United Nations](#), Original Scientific Illustrations Archive. Reproduced with permission.

71 The shared management of fisheries with non-EU countries is an added difficulty in the Mediterranean. In 2017, EU catches accounted for about 52 % of the catches in the Mediterranean by weight. [Figure 13](#) illustrates that four EU Member States account for almost all EU catches, and four other countries account for over 80 % of the non-EU catches⁸⁰.

⁸⁰ Source: GFCM database.

Figure 13 – Major fishing nations in the Mediterranean



Source: ECA based on database provided by GFCM.

The EU tools for tackling fishing overcapacity are not closely aligned with regional needs and environmental impacts

72 The CFP aims to prevent the overexploitation of marine resources by adjusting the fishing capacity of the fleets to levels of catches consistent with MSY⁸¹. In their [Annual Activity Report for 2017](#), the Commission services noted “overcapacity is considered a leading cause of overfishing in the Mediterranean Sea, given the general lack of catch controls and the reliance on fishing effort to regulate fishing mortality”.

73 The CFP obliges Member States to adjust their fleets' capacity to the fishing opportunities available to them. It sets fishing capacity ceilings per Member State in terms of tonnage and engine power; and it requires Member States to apply an “Entry/Exit Scheme”⁸², so that new capacity can only enter their fleets after the

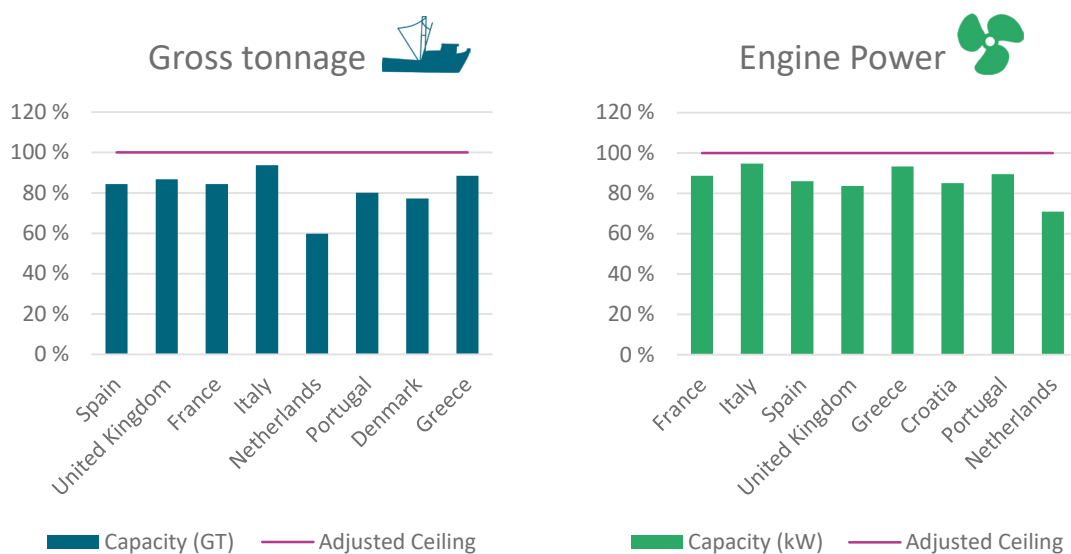
⁸¹ See point 5(d) of CFP Article 2.

⁸² CFP Article 23.

withdrawal of equivalent capacity. The maximum capacity ceilings are reduced when vessels are scrapped with public aid.

74 At the end of 2019, the fleet capacities were within the adjusted capacity ceilings – overall 21 % lower in terms of tonnage, and 15 % in terms of engine power. Therefore, these ceilings provide limited incentives for Member States to take action on fishing capacity (see *Figure 14*).

Figure 14 – Ceilings and capacities of the major fishing fleets in 2019



Source: ECA based on the [EU fleet register](#).

75 The Entry/Exit Scheme does not contain specific conditions for the Mediterranean, where fishing pressures are more severe than in the Atlantic. The Scheme allows new vessels to replace inactive vessels and new vessels to use more damaging techniques. For example, allowing the entry in the fleet of a new bottom trawler replacing a purse seiner will result in greater damage to sea bottom habitats. The CFP allows the Commission to adopt implementing acts laying down rules for the application of the Scheme, but it has not yet done so⁸³.

A small share of EU funding is used to support marine conservation

76 Financial support should address real needs and contribute to actions that improve marine conservation. In our audit, we examined whether the use of EMFF,

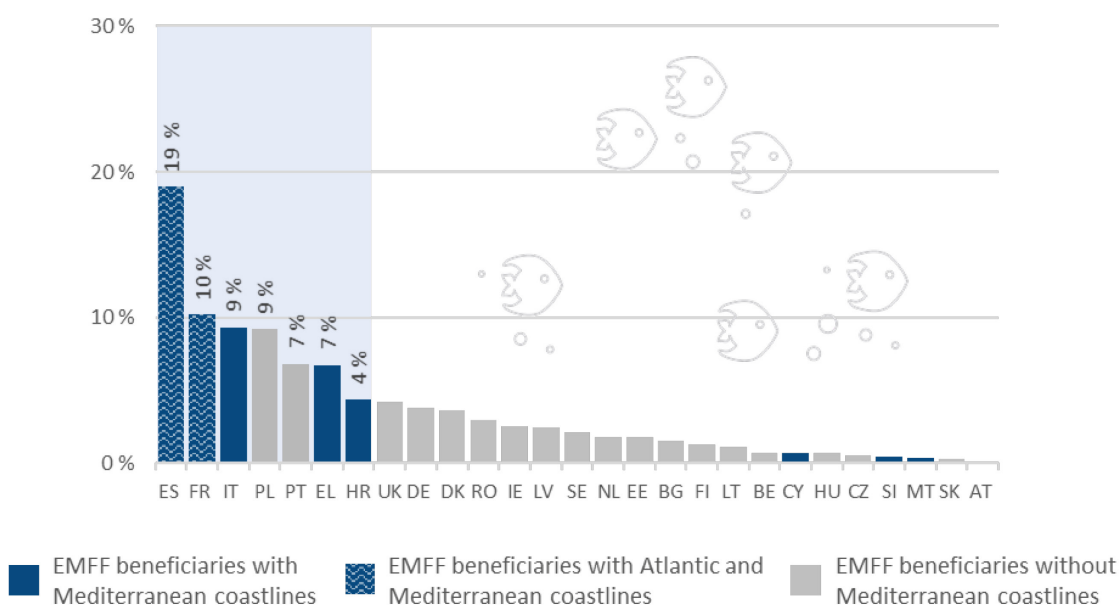
⁸³ See CFP Article 23(2).

LIFE and Interreg programmes in the four visited Member States contributed to marine conservation.

77 The EMFF supports the achievement of the CFP objectives, including minimising the negative impacts of fishing activities on the marine ecosystem and ensuring that fishing does not degrade the marine environment⁸⁴. The EMFF should not be used to fund actions increasing the fishing capacity of a vessel⁸⁵.

78 Total EMFF funding for the 2014-2020 period exceeds €6 billion. Five of the seven biggest recipients of EMFF funding are countries with Mediterranean coastlines (see [Figure 15](#)). Of these, the two largest recipients have both Atlantic and Mediterranean coastlines.

Figure 15 – EMFF highest amounts



Source: ECA based on “Facts and figures on the common fisheries policy, (EU, 2018)”.

79 The EMFF supports fishing and aquaculture activities. The EMFF is meant to support the MSFD and contribute to protecting the marine environment⁸⁶. The fund can directly support conservation measures, and also indirectly through other useful measures (including scientific knowledge, data collection and monitoring and

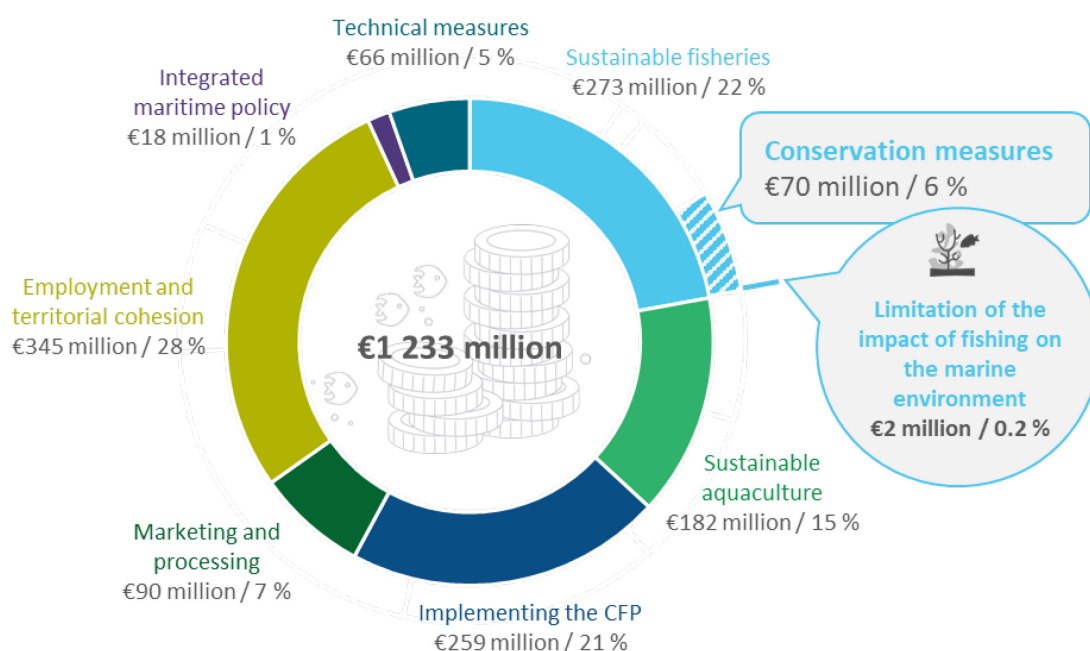
⁸⁴ Article 2(3) of the CFP Regulation.

⁸⁵ See Article 1 of the EMFF Regulation (Regulation (EU) No 508/2014).

⁸⁶ EMFF preamble (10).

enforcement)⁸⁷. We estimate that by the end of 2019, the four Member States we visited had used about 6 % of their total EMFF funding for the conservation measures most directly linked to the MSFD and the BHDs⁸⁸, and a further 8 % on measures with a less direct impact on conservation. Of this, they had used less than €2 million (0.2 %) to limit the impact of fishing on the marine environment (see [Figure 16](#)). A Commission funded study⁸⁹ from 2020 found that by 2019, EU Member States had used €14 million from the EMFF for the protection of sensitive species. In 2020, the EEA identified a need for better alignment of funding from the EMFF with the MSFD⁹⁰.

Figure 16 – EMFF funding used in the four visited Member States (by 31.12.2019)



Source: ECA based on information received from the Member States.

⁸⁷ EMFF Regulation Articles 6.

⁸⁸ EMFF Regulation Articles 37 to 40, respectively “Support for the design and implementation of conservation measures and regional cooperation”; “Limitation of the impact of fishing on the marine environment and adaptation of fishing to the protection of species”; “Innovation linked to the conservation of marine biological resources”; “Protection and restoration of marine biodiversity and ecosystems and compensation regimes in the framework of sustainable fishing activities”.

⁸⁹ “EMFF use for the protection of sensitive species” final report, March 2020.

⁹⁰ EEA: Marine messages II, 2020, p. 53.

80 We reported in 2011 that overcapacity of the EU’s fishing fleets had undermined the sustainability of fish stocks⁹¹. The EMFF aimed to finance sustainable fishing and the implementation of the common fisheries policy between 2014 and 2020⁹². Since some commercial fish stocks were overfished, a condition of the fund was that it could not be used to increase the capacity of the fishing fleets to catch fish. Therefore, the fund did not support construction of new vessels nor the increase in fishing capacity of existing vessels⁹³.

81 The Commission’s proposal for a new fund for the 2021-2027 period again excluded financial support for any increase in fishing capacity of existing vessels, and envisaged financial support for the first acquisition of small-scale coastal fishing vessels under specific conditions⁹⁴. In June 2019, the Council’s conclusions⁹⁵ on the Commission’s proposal envisaged financial support for the first acquisition of fishing vessels under specific conditions and inserted a derogation to the exclusion of support for increases in fishing capacity. By the time of our audit, the legislative authorities had not yet adopted the legislation. We note that providing support for acquisition of fishing vessels and increases in fishing capacity can lead to additional pressures on fish stocks and vulnerable marine habitats.

82 The LIFE programme⁹⁶ is the EU tool more specifically aimed at supporting environmental projects. Since 2014, the LIFE Programme has created [Integrated Projects](#) which specifically aim to support, with higher funding amounts, the EU Member States implement environmental and climate legislation. Three out of the four Member States visited promoted such projects with marine protection actions: [LIFE-IP Intemares](#) in Spain; [LIFE IP Marine Habitats](#) in France; and [LIFE-IP Azores Natura](#) in Portugal. In the four Member States that we visited, we found good examples of EU

⁹¹ European Court of Auditors [special report 12/2011](#): “Have EU measures contributed to adapting the capacity of the fishing fleets to available fishing opportunities?”.

⁹² EMFF regulation: Article 5.

⁹³ EMFF regulation: Article 11.

⁹⁴ Proposal for a Regulation of the European Parliament and of the Council on the European Maritime and Fisheries Fund and repealing Regulation 508/2014. COM(2018) 390 final of 12.6.2018: Articles 13 and 16.

⁹⁵ Council conclusions on the Commission’s proposal for a new European Maritime and Fisheries Fund, June 2019.

⁹⁶ Regulation (EU) No 1293/2013.

LIFE funding projects related to marine protection; we also saw good use made of Interreg funding. **Box 10** gives examples where EU funding made a difference.

Box 10

EU funding can make a difference

In the Berlengas Archipelago (Natura 2000 site in Portugal), the EU co-funded the **LIFE Berlengas project** (with about €0.7 million). The project aimed to restore seabird populations and to reduce seabird bycatch. Actions included eradicating invasive species (black rats) and controlling the population of predators. By the end of the project, a couple of band-rumped storm-petrels had restarted nesting in the main Island. The project reduced seabird bycatch in purse seine fishing, by using a kite which imitated a predator bird. The close collaboration of biologists and fishermen helped to raise awareness of bycatches.

First band-rumped storm-petrel chick born in Berlenga



© Ana Isabel Fagundes.

“Kite” predator



© Elisabete Silva.

The EU co-funded about €3.5 million to the **Interreg FISHMPABLU2** project, which involved 11 MPAs in six Mediterranean countries (Greece, Spain, France, Croatia, Italy and Slovenia). The project aimed at promoting sustainable small scale fisheries within and around MPAs, by testing different types of measures (e.g. engagement of fishermen in surveillance and monitoring, in decision making, replacement of fishing gears, reduction of fishing effort, etc.). The project produced a “Governance toolkit” for each measure for MPA managers and the small scale fishermen.

Conclusions and recommendations

83 This audit examined whether the EU framework to address the main pressures on marine biodiversity and habitats was well designed and applied in practice in selected parts of the Atlantic and the Mediterranean, and whether results flowed from the use of EU funds. Authoritative scientific bodies have identified fishing as a key pressure on the marine environment. As a result, when examining the policy framework, EU funding, and the way these have been applied, we paid particular attention to fisheries issues.

84 Overall, a framework was in place to protect the marine environment, but the EU's actions had not restored seas to good environmental status, nor fishing to sustainable levels in all seas. We found that EU action had contributed to progress in the Atlantic where many fish stocks have stabilised and/or improved, but that in the Mediterranean, there were no meaningful signs of progress.

85 Marine protected areas (MPAs) are the most emblematic marine conservation measures. Member States are required by the Marine Strategy Framework Directive to create coherent networks of such areas; and the EU had the objective of protecting 10 % of its sea areas by 2020. Our assessment of the role of MPAs is in line with the European Environment Agency, which identified a lack of an effective, well-managed and well-connected network of MPAs (see paragraphs [31](#) to [38](#)). As a result, they provided limited protection of marine biodiversity.

86 Member States cannot impose restrictions on fishing activities beyond territorial waters without engaging in multilateral discussions. This complicates protection of the marine environment (see paragraph [39](#)).

87 EU law for both the common fisheries policy and marine biodiversity contain specific provisions intended to coordinate fisheries measures with measures to protect the marine environment. We found, in practice, that the provisions of Article 11 of the CFP and Article 15 of the MSFD had not worked as intended in the areas we examined. This weakened coordination between these policy areas (see paragraphs [40](#) to [46](#)).

88 The Natura 2000 network established by the Birds and Habitats Directives is the cornerstone of the EU's efforts to protect biodiversity. Other EU legislation includes protective provisions that refer to the species and habitats listed in these directives. We observed that the lists of threatened species and habitats created more than

25 years ago do not take into account recent scientific knowledge. So this legislation does not protect some threatened species (see paragraphs 47 to 51).

Recommendation 1 – Identifying the regulatory and administrative changes necessary to protect sensitive species and habitats

To strengthen links between environmental and fisheries policies, the Commission, together with the Member States, should identify the regulatory and administrative changes necessary to protect sensitive species and habitats, which both:

- o facilitate faster application of conservation measures under the CFP and MSFD;
- o extend protection to more species (in particular those classified as critically endangered) and habitats in the light of current scientific knowledge.

Target implementation date: 2022

89 In the Atlantic, where fisheries management is linked to limits on allowable catches, there has been measureable improvement of fish stocks, and the Commission expects that sustainable fishing will cover 99 % of landings for exclusively EU catches and 73 % of biological stocks. For fish stocks where scientific MSY advice is available, the stock biomass was increasing. However, we observed that MSY advice was not available for over half of biological stocks, many stocks remained overfished, and the overall objective of fishing all stocks consistent with MSY advice by 2020 would not be met (see paragraphs 52 to 58).

90 In the Mediterranean, the relevant EU's scientific body (STECF) advised in 2019 that fishing was at twice sustainable levels (see paragraphs 59 and 60).

91 We found that EU action had not created the EU fishing protected areas required by the Mediterranean Regulation of 2006. Fishing restricted areas for sea basins can be created through other tools. The GFCM also allows for the creation of fishing restricted areas based on scientific advice. Since 2019, the Western Mediterranean multiannual plan provides an alternative instrument for the creation of the fishing restricted areas. The plan pushes back the general objective of achieving MSY from 2020 to 1 January 2025. The Commission will evaluate the plan in 2024, close to this new deadline (paragraphs 61 and 65).

92 There is scope for technical measures to contribute more effectively to minimising the negative environmental impact of fisheries on the marine environment in the Mediterranean. EU technical measures applicable to the Mediterranean are difficult to enforce and have not yet been sufficient to protect marine resources. In 2018, the Commission proposed a new control regulation, which addresses some of the known weaknesses applying to fishing in the Mediterranean – notably monitoring of fish catches and vessel position (paragraphs 66 to 69).

93 The EU, its Mediterranean Member States, and other Mediterranean nations are parties of the General Fisheries Commission for the Mediterranean (GFCM). Fisheries restricted areas established by the GFCM cover about 1 % of the Mediterranean; and the GFCM has banned some damaging fishing techniques (paragraph 70) in all waters deeper than 1 000 metres (representing 59 % of the Mediterranean and Black sea area).

94 The EU fishing capacity ceilings and the Entry Exit Scheme were not designed to respond to the specific circumstances of the EU regional seas and did not consider the environmental impact of different types of fishing techniques (paragraphs 72 to 75).

Recommendation 2 – Improving protection measures in the Mediterranean

Given the long standing degradation of Mediterranean marine ecosystems, the Commission together with the relevant Member States should:

- examine the case for establishing further fishing protected areas in the Mediterranean Sea basin;
- report regularly on the progress achieved and on the need for corrective actions, under the Western Mediterranean multiannual plan, to enable corrective actions to be identified and taken.

Target implementation date: 2023

95 EU policies state that EU funding should support marine environment protection. The EU has several tools for doing this. The EMFF is tailored to support the objectives of the CFP. The fund can both directly and indirectly support conservation measures. For the four Member States visited, we estimate that 6 % of the total EMFF funding used by end of 2019 directly related to conservation measures and a further 8 % had an indirect relationship to conservation objectives (paragraphs 76 to 79).

96 Overcapacity of the fishing fleet in the Mediterranean is a factor in overfishing. We noted that the Commission's proposal for a new fund for the 2021-2027 programming period largely retained existing restrictions for funding increases in fishing capacity (paragraphs **80** and **81**).

97 The EU's LIFE Programme aims at supporting environmental projects, in particular through integrated projects. Interreg can also fund projects supporting the marine environment. We saw examples of good use made of these funds in the Member States we visited (paragraph **82**).

Recommendation 3 – Increasing the potential of EU funding

The Commission should, together with the Member States, in the context of the next EMFF programming exercise, identify how to increase the contribution of EMFF funding to marine conservation objectives.

Target implementation date: 2023

This Report was adopted by Chamber I, headed by Mr Samo Jereb, Member of the Court of Auditors, in Luxembourg on 28 October 2020.

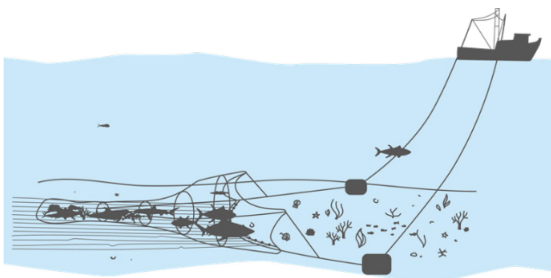
For the Court of Auditors

Klaus-Heiner Lehne
President

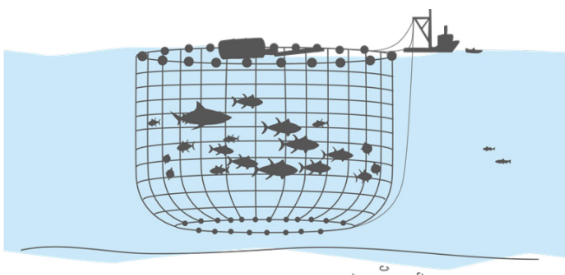
Annexes

Annex I — Fishing techniques

This Annex briefly explains the main characteristics of a few fishing techniques⁹⁷.

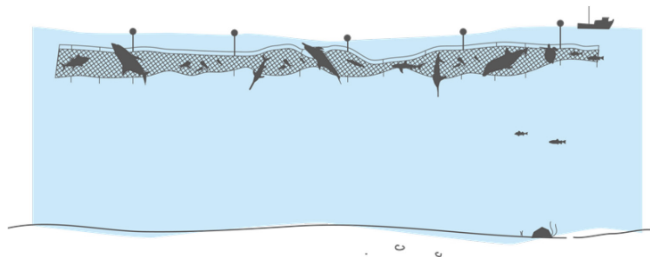


A **bottom trawl** is a cone-shaped net towed horizontally (by one or two boats) along the bottom of the sea. It usually has two wings at the side extending forward from the opening and is tapered towards a narrow, closed end ('codend') which holds the catch. The net is designed to catch species living on or near the sea floor.

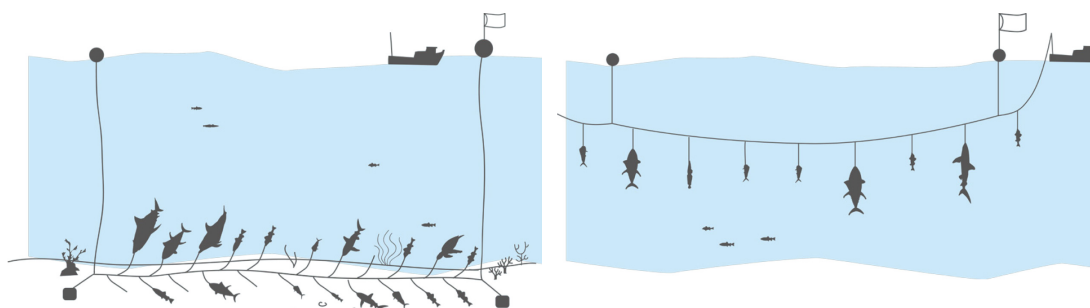


A **purse seine** is a long circular net framed at its upper and lower edges. Its lower edge has rings with steel wire or rope running through them, used to 'purse' or pull the bottom of the net closed and trap the fish. It is generally the most efficient gear for fishing in the open sea away from the bottom.

⁹⁷ Based on [FAO's website](#) information.



Drift gillnets consist of a string of nets kept more or less vertical by floats on an upper line ('headrope') and weights on a lower line ('groundrope'). The nets drift with the current, usually near the surface or in mid-water, catching fish by their gills when they swim into them. Driftnets may be attached to the boat or left to drift free and recovered later.



A **set longline** consists of a long main line and several evenly spaced branch lines ('snoods') ending in hooks. It can be set either near the bottom or, less commonly, in mid-water or near the surface. Its length can range from a few hundred metres in coastal fisheries to more than 50 km in large-scale mechanised fisheries. In the case of a **drifting longline**, the main line is kept near the surface or at a certain depth using regularly spaced floats.

Annex II — Selected MPAs

Marine subregions: Bay of Biscay and the Iberian Coast (BIC); Macaronesia (MAC); Western Mediterranean (WM)

Year: Year of proposal as a Site of Community Importance

SPAIN

Natura 2000 MPA		Subregion	Year	Marine area (ha)
ES1200055	Cabo Busto-Luanco	BIC	2004	7 712
ES1110006	Complejo húmido de Corrubedo	BIC	1997	7 410
ES6200048	Valles submarinos del Escarpe de Mazarrón	WM	2000	154 082
ES0000020	Delta de l'Ebre	WM	2006	35 972
ES7020017	Franja marina Teno-Rasca	MAC (Canary Is.)	1999	69 490

FRANCE

Natura 2000 MPA		Subregion	Year	Marine area (ha)
FR5400469	Pertuis Charentais	BIC	1999	456 027
FR7200811	Panache de la Gironde et plateau rocheux de Cordouan (Système Pertuis-Gironde)	BIC	2008	95 256
FR9402013	Plateau du Cap Corse	WM	2008	178 265
FR9301613	Rade d'Hyères	WM	2002	44 958
FR9301602	Calanques et îles marseillaises, Cap Canaille et massif du Grand Caunet	WM	2003	39 512

ITALY

Natura 2000 MPA		Subregion	Year	Marine area (ha)
IT5160002	Isola di Gorgona - area terrestre e marina	WM	1995	14 611
ITB010082	Isola dell'Asinara	WM	2002	11 862
IT5160018	Secche della Meloria	WM	2011	8 727
ITA010026	Fondali dell'isola dello Stagnone di Marsala	WM	1995	3 442
IT1344270	Fondali Punta Mesco - Rio Maggiore	WM	1995	546
IT1332674	Fondali Monte Portofino	WM	1995	544

PORTUGAL

Natura 2000 MPA		Subregion	Year	Marine area (ha)
PTCON0062	Banco Gorringe	BIC	2015	2 292 778
PTCON0012	Costa Sudoeste	BIC	1997	163 870
PTCON0056	Peniche /Stª Cruz	BIC	1998	5 474
PTDES0001	Ilhas Desertas	MAC (Madeira)	1995	10 060
PTMIG0021	Reserva Natural Marinha do Banco D. João de Castro (Canal Terceira - S. Miguel)	MAC (Azores)	1997	1 648

Acronyms and abbreviations

BHDs: Birds and Habitats Directives

CFP: Common fisheries policy

EEA: European Environment Agency

EEZ: Exclusive Economic Zone

EMFF: European Maritime and Fisheries Fund

EU: European Union

FAO: UN Food and Agriculture Organization

GES: Good environmental status

GFCM: the General Fisheries Commission for the Mediterranean

ICES: International Council for the Exploration of the Sea

IUCN: International Union for Conservation of Nature

MPA: Marine protected area

MSFD: Marine Strategy Framework Directive

MSY: Maximum sustainable yield

NEAFC: the North East Atlantic Fisheries Commission

RFMO: Regional Fisheries Management Organisations

RSCs: Regional Sea Conventions

STECF: Scientific, Technical and Economic Committee for Fisheries

TFEU: Treaty on the Functioning of the European Union

UN: United Nations

Glossary

Biological stock: A group of individuals belonging to one species within a specified area.

Convention on Biological Diversity: Multilateral treaty concluded in 1992, under the auspices of the UN, on the conservation of biodiversity, the sustainable use of its components and the fair and equitable sharing of benefits arising from the use of genetic resources.

Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention): Multilateral treaty concluded in 1979, under the auspices of the UN, on the conservation of migratory species throughout the range of areas they inhabit.

Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention): Multilateral treaty concluded in 1979, under the auspices of the Council of Europe, on the conservation of wild flora and fauna species and their habitats, in particular endangered or vulnerable.

Convention on the Law of the Sea: Multilateral treaty concluded in 1982, under the auspices of the UN, setting out the rights and responsibilities of nations with respect to their use of the world's seas and oceans and establishing guidelines on the environment and the management of marine natural resources.

Demersal fish: Species or group of fish that lives most of its life on or near the seabed.

Ecosystem approach to fisheries management: This is an integrated approach that considers the entire ecosystem. The goal is to maintain ecosystems in a healthy, clean, non-toxic, productive and resilient condition, to ensure that benefits from living marine resources are high, while the impacts of fishing operations on marine ecosystems are low and not detrimental ecosystems in the future.

Exclusive economic zone (EEZ): Area of sea, immediately beyond the territorial waters of a coastal country, in which that country has certain rights and duties under the UN Convention on the Law of the Sea.

EMFF: is the EU's funding instrument for maritime and fisheries policies since 2014.

Entry/exit scheme: Legal framework to manage the size of the EU fishing fleet in line with specified ceilings, including by ensuring that Member States cannot add new vessels without taking account of capacity withdrawn.

Fishing effort: A measure of fishing activity that takes account of the capacity of a vessel or fleet and the number of days spent fishing.

Fishing effort regime: An approach to managing fish stocks by imposing limits on fishing effort.

Interreg: This set of programmes is funded by the European Regional Development fund and supports cooperation across borders through project financing. It aims to jointly tackle common challenges and find shared solutions in various fields, including the environment.

LIFE: is the EU's funding instrument for the environment and climate action since 1992.

Marine protected area (MPA): Area of sea designated, by law or otherwise, for the protection and maintenance of biodiversity, natural resources and cultural heritage sites.

Maximum sustainable yield (MSY): The maximum quantity of fish that can be caught continuously under existing conditions without depleting the stock.

Pelagic species: Marine life that spends most of its time away from the shore and the seabed.

Regional Fisheries Management Organisations (RFMOs): International organisations formed by countries with fishing interests in an area. RFMO's manage both highly migratory species (such as the International Commission for the Conservation of Atlantic Tunas); and fish stocks by geographical area (such as the NEAFC).

Regional Sea Conventions (RSCs): Cooperation structures to protect the marine environment involving Member States and neighbouring countries that share marine waters. The four European RSCs are OSPAR (the convention for the protection of the marine environment in the north east Atlantic), HELCOM (the convention on the protection of the marine environment in the Baltic sea area), the Barcelona Convention (the convention for the protection of the marine environment and the coastal region of the Mediterranean), and the Bucharest convention (the convention for the protection of the Black Sea).

Safe biological limits: Set of parameters which, if respected in the management of a fish stock, will ensure a low probability that the stock will collapse, but is less restrictive than MSY.

Stock biomass: The combined weight of all individual fish in a stock that are capable of reproducing.

Total allowable catch (TAC): The maximum volume that can be caught from a stock of fish each year under the common fisheries policy.

REPLIES OF THE COMMISSION TO THE EUROPEAN COURT OF AUDITORS' SPECIAL REPORT

“MARINE ENVIRONMENT: EU PROTECTION IS WIDE BUT NOT DEEP”

EXECUTIVE SUMMARY

I. Fisheries is indeed usually identified among the key pressures on the EU's seas, together with other pressures such as sea floor damage (likely to increase with growth in maritime activities other than fisheries), pollution (from various activities, by nutrient enrichment and contaminant, marine litter, including plastics and micro-plastics, underwater noise, etc.) and the spread of non-indigenous species. Those other pressures involve other sectors of activities than fisheries, such as maritime transport, energy, tourism, agriculture and industry. With technological progress, new opportunities arise for existing and new maritime activities, generating an increased competition for maritime space, which is also source of considerable pressure on the marine environment.

Finally, climate change has a general negative impact – through sea level rise, deoxygenation, acidification and ocean warming – on the ocean, biodiversity, the coastal and marine ecosystems and the services they render. That is why only a holistic, integrated approach, encompassing all activities and addressing all pressures in a context of enhanced cooperation and coordination and improved governance, within and outside the EU, can make a difference. However, it should also be noted that the seas are also an important source of healthy food that is vital for the people and the economy.

III. The Commission acknowledges the importance of the work of the Convention on Biological Diversity (CBD) and underlines the crucial importance of the post-2020 global biodiversity framework and the need for ambitious and realistic targets, driving action, including as regards marine and coastal biodiversity.

IV. See Commission reply under paragraph I.

V. The Commission understands that 'EU actions' include action by Member States and their responsibility to implement the provisions from environmental and fisheries legislation.

See also Commission replies to paragraphs IV and VI.b).

In addition to the significant progress made in the North East Atlantic, the Commission underlines the recent efforts and achievements in the Mediterranean.

Similarly, model based indicators on sustainable fisheries (Estimated trends in fish stock biomass and Assessed fish stocks exceeding fishing mortality at maximum sustainable yield) provide an improved picture for the North-East Atlantic, while data for other EU waters such as the Mediterranean or the Black Sea are not yet robust enough to be considered for monitoring.

On the EMFF aspects, the Commission notes that it is for Member States to target/make use of the available EU funds.

VI. a) As reflected in the recent MSFD implementation report (COM(2020) 259) and in the 'Fitness Check' evaluation of the EU Birds and Habitats Directives, the major challenges to achieve good environmental/conservation status are linked to implementation gaps and lack of ambition and resources, rather than significant problems in the policy framework.

See Commission replies to paragraphs 16 and 20 of the report.

The Commission is starting the evaluation and possible review of the MSFD and will explore the existence of policy gaps.

The Commission agrees that the effectiveness of the marine protected areas and coherence of their networks needs to be improved and this is one of the main goals of the new Biodiversity strategy.

b) The Commission notes that the North East Atlantic has seen a significant progress and the state of fish stocks has significantly improved. While in 2009 we had only 5 sustainable TACs set in line with the Maximum Sustainable Yield (MSY), in 2020 this number increased to 62 TACs.

Only a few stocks remain overfished and here the Commission is working together with the International Council for the Exploration of the Sea (ICES) towards a fuller scientific picture on the state of the stock in order to improve the management of these stocks.

c) While the state of the stocks in the Mediterranean is affected by high fishing rates, the overall context needs to be considered, especially against the background of the new policy initiative launched with the 2017 MedFish4Ever Declaration and the large number of new management measures adopted at the level of the basin through the General Fisheries Commission for the Mediterranean (GFCM). These measures are however recent and more time is needed for them to translate into an improved state of the fish stocks.

Fishing effort is one of the fisheries management levers in the Mediterranean, but not the only one. The Mediterranean Regulation in particular provides for unique rules for the protection of habitats and coastal areas. Technical measures, provided for in the Technical Measures Regulation are also an important fisheries management tool.

d) The Commission notes that the EMFF is the instrument to support the common fisheries policy and the achievement of all of its objectives, i.e. to contribute to economic, social and environmental sustainability of fisheries. Within this scope, it supports biodiversity and marine environment actively, as well as the mitigation of the damage caused by the fisheries sector.

VII. The Commission accepts the recommendations of the ECA.

INTRODUCTION

01. The EU also promotes regional cooperation for the sustainable use of the ocean under sea basin strategies (i.e. Atlantic Maritime Strategy, WestMed initiative and Common Maritime Agenda for the Black sea) and macro-regional strategies.

05. While the EU has exclusive competence on the conservation of the marine biological resources, the Commission is at the same time restricted in its powers, including by the system of joint recommendations which the Commission can either agree to or refuse. The CFP has clearly as its objectives not just the environmental goals, but also socioeconomic ones.

07. See Commission reply to paragraph I (summary).

09. See Commission's reply to paragraph 84.

10. The CFP is one of the Union's common policies. In accordance with Article 39(1)(d) and (2)(c) TFEU, it aims to ensure that fisheries and aquaculture are environmentally, economically and socially sustainable in the long-term, and that they provide a source of healthy food for EU citizens.

11. The Commission would like to underline the following:

1) To ensure that fisheries management decisions are based on the best available scientific advice, extensive collection of data is necessary. In this respect, Member States are required to collect data through the Data Collection Framework. This data is then used by scientific advisory bodies to issue scientific advice on which the Commission bases its proposals, including for setting the annual fishing opportunities.

2) The scientists are not yet in a position to provide MSY advice for all stocks. For a limited number of stocks this is due to the lack of sufficient data (notably for deep-sea species or in the Mediterranean), and partly due to issues with the scientific assessment itself, often related to limitation of expert resources. The situation has improved significantly in the last years but further improvements are pursued, with funding under the EMFF.

3) An ex-post assessment of the achievement of Fmsy of all fish stocks by 2020 will only be possible on the basis of final 2020 catch data.

4) It is expected that more than 99% of landings in the Baltic, North Sea and the Atlantic managed exclusively by the EU will be fished at sustainable levels in 2020.

5) There are a number of stocks, where achieving MSY will not be possible for 2020, and which are shared with other states. Where stocks are shared with non-EU countries, achieving MSY raises specific challenges since it requires that the non-EU countries share the goal and agree on the modalities to achieve it.

13. At the EU level, fisheries management in the Mediterranean often relies on effort regimes rather than TACs, although there are also TAC-based schemes for some important fisheries (e.g. tuna fisheries). The 2019 Western Mediterranean Multi-Annual Management Plan (MAP) for demersal fisheries, which is the first EU MAP in the Mediterranean, endorses this effort-based approach.

It is also important to acknowledge the specificity of the EU fisheries legislation for the Mediterranean, the MedReg, which provides for the protection of coastal areas and sensitive habitat, unlike other sea basins.

16. The 'Fitness Check' evaluation of the EU Birds and Habitats Directives concluded that they remain highly relevant and are fit for purpose. However, full achievement of their objectives will depend on substantial improvement in their implementation in Member States and in cooperation with stakeholders. Based on these findings, the Commission has implemented an “Action plan for nature, people and the economy”, which aimed to address the shortcomings identified during the evaluation and improve the Directives coherence with broader socio-economic objectives. The EU Biodiversity Strategy to 2030, adopted in May 2020, is expected to give new impetus to the implementation of the Birds and Habitats directives.

20. With the MSFD, the EU has a holistic and comprehensive marine policy in place that puts into practice the ecosystem-based approach to manage human activities in Europe’s seas. The MSFD provides the structure for setting up the necessary marine strategies to pursue good environmental status in EU marine waters, including the maintenance of biodiversity in all marine ecosystems. Member States set the level of ambition and the means to achieve that goal. The measures put in place as well as the level of ambition of Member States’ strategies could be fine-tuned.

24. The Commission notes that, the EMFF is the instrument to support the CFP and the achievement of all of its objectives, i.e. to contribute to economic, social and environmental sustainability of fisheries. Within this scope, it also supports biodiversity and the marine environment actively, as well as the mitigation of the damage caused by the fisheries sector.

AUDIT SCOPE AND APPROACH

25. See Commission's reply to paragraph 84.

OBSERVATIONS

30. Concerning the title, the Commission considers that the protection of the marine environment would benefit from the improvement on 'implementation' of the EU policies, as already reflected in the MSFD implementation report or the 'Fitness Check' of the EU Birds and Habitats Directives, among others. Actually, the newly adopted EU Biodiversity Strategy to 2030 asks for full implementation of environmental and fisheries policies.

The Commission takes note of these observations in view of the upcoming evaluation of the MSFD.

31. The Commission considers that establishing and effectively managing marine protected areas networks will help conserve rich and often unique marine biodiversity. The Commission is aware that currently the MPA network in EU waters is not ecologically representative.

Effective management of marine protected areas and their expansion to create a truly coherent EU network are one of the main targets of the EU Biodiversity strategy to 2030.

32. Designating MPAs does not have to lead to restricting human activities altogether, but rather establishing effective management measures according to the conservation objectives of the areas and on the basis of the best available scientific advice. This may lead to restricting fishing activities only when it is necessary to fulfil the ecological requirements of the natural features, which are the subject of protection.

The Commission emphasizes that MPAs may include many other conservations measures which are not linked to fishing.

34. See Commission reply to paragraph 32.

36. See Commission reply to paragraph 32.

MPAs are also one of the tools that increase the resilience of ecosystems to stressors, including to climate change. Well-identified, managed and enforced MPAs can provide benefits by increasing fish biomass and biodiversity. Moreover, the socio-economic sustainability and overriding public interest play also a role when deciding on the activities.

Box 3 - Marine protected areas (MPAs) and protection from fishing

See Commission replies to paragraphs 32 and 36.

39. The conservation measures in MPAs may impose fishing restrictions if necessary to reach the conservation objectives. See Commission replies to paragraphs 32 and 36.

41. The CFP provides various tools to take fisheries-related measures necessary to comply with environmental obligations. Under the CFP it is also possible, e.g. to establish fish stock recovery areas.

42. The Commission considers that the current CFP provides the necessary tools for the Member States to comply with their obligations under the environmental legislation.

First, the Commission would like to recall that Member States may adopt conservation measures applicable to their vessels and conservation measures liable to affect fishing vessels of other Member States within its 12 miles on the basis of Article 20 CFP.

Moreover, Member States may also aim for a regional Joint Recommendation. We recognize that the adoption of such recommendation may be made complex by either lack of capacity on the Member States side or challenges in the consultations between national administrations. To facilitate this process, the Commission has issued a guidance document, held workshops and raised awareness on the political level.

The Commission also underlines that there are examples of successful implementation of Article 11 in the Baltic and North Sea.

Box 4 - Example of the difficulties in applying CFP Article 11

The Commission acknowledges that the process to agree on a Joint Recommendation can take time. However, the responsibility to enact conservation and protection measures is not limited to the coastal Member State or to the Member State hosting the MPAs. However, even in the absence of a time limit, the other Member States must, in line with the principles of sincere cooperation, cooperate in the compliance of such duties.

43. See Commission reply to paragraph 42.

46. The Commission followed the procedure requested by MSFD Art.15. However, since then, there has been no submission of further requests at the necessary instances (e.g. the Regional Fisheries Management Organisation or Art. 11 of the CFP).

It must be noted that this is the only case when MSFD Art.15 has been invoked. The review of the MSFD will pay attention at the possible shortcomings of this particular process.

48. Even when a species is not listed in the annexes of the Directives, the Natura 2000 network, through its 'umbrella effect' covers a high proportion of species of conservation concern beyond those listed in the Annexes. Furthermore, these directives have to be read in interplay with the MSFD, whose provisions enable MS to protect all marine species and habitats, without need to refer to each individual species.

The EU Birds and Habitats Directives have been subject to a thorough REFIT evaluation that concluded in 2016 that they are fit for purpose but their implementation needs to be improved, notably as far as the adoption of site specific conservation objectives and management plans is concerned.

This is why the new EU Biodiversity Strategy for 2030 aims inter alia at boosting the implementation of the directives and expanding the MPAs network.

49. The protection of marine ecosystems by the BHDs is, however, to be read in interplay with the MSFD.

51. In the Commission's view, any comparison between different sea basins should be done with caution due to different geographical situation as well as different fisheries taking place therein. Closing a vast area of ocean with no economic activity has lesser socio-economic implications. It is a Member State responsibility to designate and manage MPAs and that MPAs are not the only tool for the protection of species or habitats - sometimes horizontal measures are more effective, especially for highly migratory species, like sharks. The CFP provides various tools for the conservation and management of marine species including the sharks.

52. Regarding the heading to the section, the Commission considers that there was significant progress in the Atlantic and considerable efforts are ongoing in the Mediterranean.

The Commission shares ECA's view that the existence of an effective fisheries control system is essential to ensure sustainable fisheries. To this end, the Commission has made a proposal (COM(2018)368) to further strengthen fisheries control and enforcement, which is currently under discussion by the co-legislators.

54. The Commission recalls that there has been significant progress in the North East Atlantic and fish stocks have significantly improved. It is expected that more than 99% of landings in the Baltic, North Sea and the Atlantic managed exclusively by the EU will be fished at sustainable levels in 2020.

Concerning signs of progress in the Mediterranean, the Commission recalls the ambitious strategy adopted in 2017, starting with the MedFish4Ever Declaration and leading to the adoption of a large number of measures at GFCM level and the adoption of the Western Mediterranean MAP. These measures have yet to produce quantified results in terms of improved state of the stocks, as they have been adopted only recently.

55. The Commission considers that the number of TACs set in line with MSY advice has increased over the last decade from 5 MSY TACs in 2009 to 62 TACs set in line with MSY in 2020.

58. The observation in this paragraph refers to the stocks, which are by-catches in other fisheries that are conducted at a healthy level. The CFP Basic Regulation as well as the Western Waters and the North Sea Multi-Annual plans set out that so-called choke situations, where healthy fisheries would be closed, because they have by-catches of other fish where ICES advises a lower catch level or zero catches, should be avoided. It was hence in this very specific context where the Commission has proposed TACs above scientific advice.

Box 9 - Some reports have criticised the fishing catch limits set in the Atlantic

See Commission reply to paragraph 58.

59. Regarding the heading to this section, the Commission considers that the many initiatives taken over the last few years in the Mediterranean still need time to translate into improved figures in terms of the biological state of the stocks.

The Western Mediterranean MAP illustrates this situation as 2020 is only the first full year of its implementation. The measures it puts in place will require a few more years before the state of the stocks' numbers will improve.

The experience of the Mediterranean blue fin tuna shows that recovery takes time: ICCAT adopted a recovery plan in 2006 which led to the full recovery of the stocks in 2017.

60. Common reply to paragraphs 60 and 61.

See Commission reply to paragraph 13.

In addition, STECF ([PLEN-17-02](#)) noted that implementing TACs in the Mediterranean remains challenging because the available data are not reliable enough as fisheries information is often partial and imprecise and time series relatively short. There are additional issues linked to the enforcement of a management regime based on output controls (TACs) in the Mediterranean. The main issue is the difficulty to monitor and control the catches of the numerous fleets. Demersal fisheries target a mix of

species often without clear dominant species. Landings occur over an extremely high number of ports and landing places and the fishery is dominated by the small-scale fisheries whose catches are difficult to quantify.

62. On data availability, the Commission makes increased efforts to engage with the relevant end users, including the RFMOs in the region to ensure adequate scientific coordination and improvement of scientific advice.

The Commission is working with the Member States in the Mediterranean Sea to further improve the data collection, data quality, stock assessment and scientific advice.

The Commission recently carried out a series of audits in the Mediterranean to assess the Member States' catch reporting systems. Following these audits, the Commission and the Member States concerned established action plans to strengthen the catch reporting systems and hence improve the data reliability. The Commission is regularly monitoring the implementation of the action plans. An audit of the Member States' fishing effort management systems in the Mediterranean is scheduled for 2021.

Regarding the STECF opinion of 2017 on data availability and quality, it should be noted that this analysis was based on 2016 datasets. Since then, 3 more years of data have been accumulated thus making the time series longer (2017-2019) and advice has steadily improved (also according to GFCM's annual report (SoMFi)) although some challenges still remain.

63. STECF concluded that many national management plans were not aligned with the MSY objective of the CFP and that they were unlikely to create the conditions for reaching MSY in 2020. The Commission is aware that some of these national management plans need to be more ambitious, and aligned with the objectives of the CFP. The Commission is working with the Member States, inspired by the Medfish4Ever Declaration, towards these improvements, with some noticeable successes (e.g. the Italian demersal plan revised in 2019 upon the Commission's request with substantial effort limitations).

Regarding the remark that some of the national management plans are associated with derogation requests, it should be noted that this is a requirement from the MedReg. No derogation to for example the prohibition to fish in coastal areas can be granted in the absence of a management plan.

64. The Mediterranean Regulation is not the only legal basis to establish protected areas as relevant elements under the new Western Mediterranean MAP (in terms of spatio-temporal closures) and provisions linked to the fisheries restricted areas or to spatio-temporal restrictions adopted under the GFCM (e.g. the Gulf of Lion fisheries restricted area) also need to be considered.

It is also important to note that under the MedReg it is up to the Council to adopt fisheries restricted areas (FRA), based on information submitted by the Member States. Member States may of course establish further FRAs on that basis.

65. One of the objectives of the Western Mediterranean MAP is to improve data collection and scientific advice in the area. This improved scientific underpinning will support the evaluation of the plan scheduled for 2024.

67. This triennial report will assess the extent to which technical measures both at regional level and at Union level have contributed to achieving objectives (Article 3) and targets (Article 4) of this regulation. Given that the overarching philosophy of this regulation is to allow for a bottom-up approach with regard to the technical specificities at regional level whilst ensuring the achievement of

common objectives and goals, this reporting provision is essential for the implementation of the regulation. Therefore, it is necessary to have in place a system that monitors progress and promotes corrective actions if progress is insufficient to meeting the targets and objectives set in the regulation.

According to Article 31(3), where the above-mentioned report finds that the objectives and targets of the Regulation have not been met at regional level, Member States within that region shall, within 12 months after the submission of the report submit a plan setting out the actions to be taken to contribute to achieving those objectives and targets.

69. An effective control system is indeed key to ensuring that the EU's fisheries are sustainably managed. Amongst others, the Commission's proposal to revise the fisheries control system contains measures to strengthen the fisheries data systems, including fully digitised reporting of catches, applicable to all EU fishing vessels (including vessels below 12 metres), an electronic tracking system for all vessels, new weighing procedures for fisheries products and enhanced traceability provisions.

71. It is key to recognise the importance of managing fisheries in the Mediterranean with non-EU partners. This is dictated essentially by the shared nature of most stocks, which calls for an agreed-upon answer by all Mediterranean countries. It is in this spirit that the EU has intensified its activities at GFCM level since the signature of the MedFish4Ever Declaration in 2017.

72. The excessive fishing capacity in the Mediterranean is one of the many drivers of the high level of fishing.

Where a fishing effort regime is in place, it is essentially poor compliance by fishers that makes overcapacity a factor of overfishing. Effort mechanisms such as the one established by the Western Mediterranean MAP allow a maximum number of fishing days per year, per country, and per vessel categories (in terms of size). The total number of days in an effort regime is independent of the number of vessels sharing them.

The Commission is paying particular attention to the implementation of the MAP to ensure adequate compliance. It is also monitoring the reduction of fishing capacity.

74 According to the EU fleet register, e.g. Italy was in July 2020 at 95% of its ceiling for both kW and GT. In Commission's view, the ceiling therefore does provide in this case an incentive to manage the capacity and to maintain it under the ceiling.

75. The Commission services recently concluded an evaluation on the Entry/Exit scheme (SWD (2019)311). The evaluation found that the scheme as such is fit for purpose, but that some weaknesses exist in the implementation by Member States. The entry-exit scheme and the capacity ceilings set out in the CFP Regulation refer to capacity in individual Member States rather than at sea basin level. In addition, fishing capacity is measured in terms of the gross tonnage and engine power of a vessel, and bears no reference to different types of fishing techniques. The latter is regulated by other legal acts, including the Council Regulation on fishing opportunities, GFCM Recommendations or the Technical Measures Regulation of 2019.

Addressing fishing capacity is one of the objectives that the Mediterranean countries committed to in the MedFish4Ever Declaration, through the adoption of a fishing capacity plan. The Commission is currently reflecting about the best way to implement this commitment under the GFCM.

77. The EMFF conditionalities play an important role for it to act as a policy instrument.

During implementation, the EMFF puts conditions on the eligible beneficiaries before and after application and project completion, on the measures that may be implemented, on the managing authority and MS's management and control system and, most importantly, on the MS's fisheries policy and the way this is implemented. With these conditions the EMFF ensures not only that its funding does not lead to structural increases in capacity, but that fleet capacity adjustment plans are implemented for unbalanced fleets (e.g. WestMAP).

Under the EMFF, operations increasing the fishing capacity of a vessel are not eligible for funding.

78. The Commission notes that out of the total EMFF funding for the 2014-2020 period, €5,75 billion were allocated to Member States under shared management.

79. The EMFF goes beyond exclusively financing the marine environment. It supports the CFP and the achievement of all of its objectives, i.e. to contribute to economic, social and environmental sustainability of fisheries and aquaculture, as well as coastal development. Within this scope, it supports biodiversity and marine environment actively and the mitigation of the damage caused by the fisheries sector. The content of operational programmes is defined in partnership with Member States in the context of shared management.

81. The Commission notes that co-legislators have introduced a number of amendments, which would introduce EMFF-funding for increases in fishing capacity. The Commission strongly opposes to such amendments.

Box 10 - EU funding can make a difference

The Commission would like to highlight that there are many EMFF-projects, which support the management of Natura 2000 areas. One example is the INTERMARES project in Spain, where the EMFF contributed with € 11 million to a LIFE integrated project to support the implementation of the Prioritised Action Framework in the Spanish marine Natura 2000 network and to ensure that, upon completion, Spain has an effectively managed consolidated network of Natura 2000 marine areas, with active participation of stakeholders.

CONCLUSIONS AND RECOMMENDATIONS

See Commission replies in paragraphs IV, V and VI.

The Commission underlines that the protection of the marine environment requires a comprehensive approach to tackle all pressures at European level and beyond. Fisheries is one of the key pressures on the marine environment to consider in this context. See paragraph 36.

The Commission understands that 'EU actions' include action by Member States and their responsibility to implement the provisions from environmental and fisheries legislation.

84. In addition to the significant progress made in the North East Atlantic, it is also important to recognise recent efforts and achievements in the Mediterranean.

On the EMFF aspects, it is important to note that it is for Member States to target/make use of the available EU funds.

Concerning signs of progress in the Mediterranean, the Commission recalls the ambitious strategy adopted in 2017, starting with the MedFish4Ever Declaration and leading to the adoption of a large number of measures at GFCM level and the adoption of the Western Mediterranean MAP. This

strategy has yet to produce quantified results in terms of improved state of the stocks, but that is inevitable considering that these changes have been adopted only recently.

85. See Commission replies to paragraph VI.

The Commission agrees that the effectiveness of the marine protected areas and coherence of their networks needs to be improved and this is one of the main goals of the new Biodiversity strategy.

87. The Commission acknowledges that the progress under Article 11 of the CFP has been slower than desired. However, it is important to note that the reformed CFP has a much stronger environmental dimension and for the first time provided for such a tool (Article 11) allowing Member States to propose fisheries management measures in Natura 2000 areas to comply with their obligations under the Birds and Habitats Directives. The co-legislators opted for regionalisation, which would allow for a more regional approach in order to cater for regional specificities. Lack of progress very often is also due to elements outside of the scope of the CFP, such as lack of capacity in the Member States' administrations as well as challenges in the consultations between national administrations. Even if Member States' argue that Article 11 is complicated to apply, they do have a legal obligation and the necessary tools to do so. Article 11 should allow them to take the necessary measures under the CFP to comply with the environmental obligations, as we can see from the successful examples of use of Article 11 in the Baltic Sea and the North Sea. The Commission has published the relevant guidance to facilitate Member States in establishing necessary measures in Natura 2000 and for MSFD purposes. Whilst bearing in mind the right of initiative of the Commission, when confronted with an MSFD Article 15 case, the Commission will strive to support Member States in achieving the objectives of the MSFD, within the boundaries of EU law.

88. See Commission's replies to paragraphs 48 and 49.

Recommendation 1 – Identifying the regulatory and administrative changes necessary to protect sensitive species and habitats

The Commission accepts this recommendation.

First indent - The Commission is starting the evaluation of the MSFD and will report on the functioning of the CFP in 2022. The Commission will also publish an action plan on the conservation of fisheries resources and protection of marine eco-systems as a follow up to the Biodiversity Strategy. The Commission will take this recommendation into account in this context.

Member States have an important role in improving implementation of EU legislation, including Articles 11 CFP and 15 MSFD. The Commission would like to note that enhanced implementation and enforcement could be more important than legislative changes.

Second indent - The Commission would like to recall that all marine species and habitats are protected by the Marine Strategy Framework Directive and it is up to Member States to implement adequate conservation measures on the ground to ensure good environmental status.

The Commission is actively advocating that Member States make more use of the regionalised approach in order to agree on more joint recommendations on conservation measures.

89. The Commission considers that, there has been significant progress in the North East Atlantic and fish stocks have significantly improved.

The Commission understands that the observation in this paragraph of the report refers to the stocks which are by-catches in other fisheries that are conducted at a healthy level. The CFP Regulation as well as the Western Waters and the North Sea Multi-Annual plan set out that so-called choke situations, where healthy fisheries would be closed, because they have by-catches of other fish where ICES advises a lower catch level or zero catches, should be avoided. It was hence in this context where the Commission has proposed TACs above scientific advice.

There are a number of stocks, where achieving MSY will not be possible for 2020, and which are shared with other states. Where stocks are shared with non-EU countries, achieving MSY raises specific challenges since it requires that the non-EU countries share the goal and agree on the modalities to achieve it.

90. The Commission considers that there have been many recent achievements in this sea basin (e.g. Western Mediterranean MAP and many measures adopted in GFCM).

See Commission reply to paragraph 84.

91. The Commission notes that it is a Member State responsibility to establish the marine protected areas under its jurisdiction or sovereignty and the necessary conservation measures. The Mediterranean Regulation puts the onus for establishing fishing protected areas essentially on the Member States. Member States have established such 'protected areas' through national law. The Mediterranean Regulation is unique in the sense that it is the only CFP instrument that provides for fisheries restrictions in coastal areas (ban on trawling within 3 nm from the coast / 50m isobaths) and above certain habitats (e.g. Posidonia beds).

While the Commission proposal for the Western Mediterranean Multi-annual Plan (COM(2018) 115) was fully in line with the 2020 MSY objective, it should be underlined that it was the decision of the EU co-legislators (European Parliament and Council) to delay the MSY-objective to 1 January 2025.

94. As noted in the Commission's reply under paragraph 75, it needs to be recalled that the Commission services recently concluded an evaluation on the Entry/Exit scheme (SWD (2019)311). This evaluation concluded that the scheme as such is fit for purpose, but that some weaknesses exist in the implementation by Member States. The entry-exit scheme and the capacity ceilings set out in the CFP regulation refer to capacity in individual Member States rather than at sea basin level. In addition, fishing capacity is measured in terms of the gross tonnage and engine power of a vessel, and bears no reference to different types of fishing techniques. The latter is regulated by other legal acts, including the Council Regulation on fishing opportunities, GFCM recommendations or the Technical Measures Regulation of 2019.

Recommendation 2 – Improving protection measures in the Mediterranean

First indent - The Commission accepts this recommendation. The existing regulatory framework provides the necessary tools, both at the EU (Mediterranean Regulation and Western Mediterranean MAP) and international (General Fisheries Commission for the Mediterranean - GFCM) level. Establishing FRAs in EU waters is primarily a national competence.

The Commission and the Member States are currently exploring opportunities to submit new FRAs for adoption at the GFCM. They are also exploring ways to streamline the management modalities for FRAs in the Mediterranean basin.

Second indent - The Commission accepts this recommendation.

The Commission monitors the implementation of the MAP very closely, especially from a scientific perspective, and will not hesitate to propose corrective action, in line with scientific advice and in accordance with the provisions of the MAP and of the CFP, including through the communication on fishing opportunities.

Recommendation 3 – Increasing the potential of EU funding

The Commission accepts this recommendation.

It is important to note that it is, within the limits defined in the EMFF Regulation, a decision of the Member States how to use the funds available under their national envelopes.

In the context of the programming exercise for the EMFF 2021-2027, the Commission will however encourage Member States to increase their EMFF spending on measures protecting the marine environment. The EMFF will continue to support the achievement of the CFP objectives, the protection and restoration of marine and coastal biodiversity and ecosystems which are key challenges for achieving healthy seas and oceans. It will also support actions to achieve or maintain a good environmental status in the marine environment as set out in the Maritime Strategy Framework Directive, for the implementation of spatial protection measures established pursuant to that Directive, for the management, restoration and monitoring of NATURA 2000 areas and for the protection of species under the 'Habitats' and 'Birds' Directives.

However, it is too early to draw conclusions on the extent to which the EMFF will contribute to the protection of the marine environment, as the Member States will present their future programmes in 2021, 2022 and possibly (although unlikely) in 2023.

Finally, it is important to acknowledge that the EMFF does not exclusively finance the marine environment.

Audit team

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This performance audit was carried out by Audit Chamber I Sustainable use of natural resources, headed by ECA Member Samo Jereb. The audit was led by ECA Member João Figueiredo, supported by Colm Friel, Principal Manager; Michela Lanzutti and Antonella Stasia, Auditors. Michael Pyper provided linguistic support. Marika Meisenzahl provided graphical support.



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Timeline

Event	Date
Adoption of Audit Planning Memorandum (APM) / Start of audit	5.6.2019
Official sending of draft report to Commission (or other auditee)	15.7.2020
Adoption of the final report after the adversarial procedure	28.10.2020
Commission's (or other auditee's) official replies received in all languages	17.11.2020

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Marine biodiversity and habitat loss is an ongoing challenge for Europe's seas. In this report, we examine how this challenge is addressed by key EU policies and spending programmes in parts of the Atlantic and the Mediterranean.

While a framework is in place to protect the marine environment, EU actions have not restored seas to good environmental status nor fishing to sustainable levels in all seas. EU protection rules have not led to the recovery of significant ecosystems and habitats; Marine Protected Areas provide limited protection; provisions to coordinate fisheries policy with marine protection policy are little used in practice; and relatively few of the available funds are used for conservation measures.

While there has been measurable improvement in fish stocks in the Atlantic, this is not the case in the Mediterranean.

We make recommendations to the Commission to address these issues, together with the Member States.

ECA special report pursuant to Article 287(4), second subparagraph, TFEU.



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