

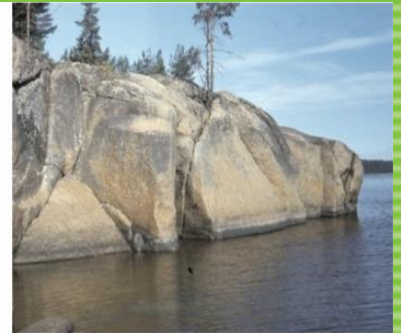


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Environmentally Sustainable Spatial Use Concepts for the Baltic Sea Coastal Zone of the Russian Federation (MSP-Rus), Phase II

Summary Report



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МИНИСТЕРСТВО ЭКОНОМИЧЕСКОГО РАЗВИТИЯ
РОССИЙСКОЙ ФЕДЕРАЦИИ

Environmentally Sustainable Spatial Use Concepts for the Baltic Sea Coastal Zone of the Russian Federation (MSP-Rus), Phase II

- Summary Report on the Advisory Assistance Project -

Project management: Prof. Dr. Gerold Janssen

Leibniz Institute of Ecological Urban and Regional Development e.V. (IÖR)

Weberplatz 1, 01217 Dresden

www.ioer.de

Editors: Prof. Dr. Gerold Janssen, Ina Magel, LL.M.

In collaboration with:

Research and Development Institute for Master Plans and Urban Development Projects (NIIP Gradostroitelstva)

Ul. Koltsova 58 a, 194214 St. Petersburg, Russia

www.niipgrad.spb.ru

Translation by: Birgit Kühn, www.texthabitat.de

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Background

The development of an environmentally sustainable concept for the spatial use of marine areas is largely consistent with the approaches of maritime spatial planning. In marine areas, it is an important instrument for sustainable planning and development, especially for coastal waters and the Exclusive Economic Zones (EEZ) of coastal states. Its objective is, to reconcile growing economic and social demands on the marine and coastal environments with their environmental processes and carrying capacity.

German coastal states (*Länder*) have established regional plans for their coastal waters early on (Mecklenburg-Western Pomerania 2005), or included the sea in terrestrial regional plans. Since 2009, federal development plans have been coordinating the diversified uses in the Exclusive Economic Zone in the North and Baltic Seas.

The Russian Federation has also commenced with preparations for a federal law on maritime planning (Law “On Maritime Planning in the Russian Federation”). With this initiative, Russia intends to contribute to the coordination of various uses and to the protection of the environment in the region. During the ongoing legislative and planning process, Germany’s experiences can assist in terms of a knowledge and methodology transfer.

Project objectives

Within the scope of the advisory assistance project MSP-Rus, particular assistance was provided to Russian ministries and agencies to support their journey towards an ecosystem approach in maritime planning. Phase 1 of this project saw an in-depth exchange of information between Germany and Russia regarding the current state of maritime spatial planning in both countries. After the selection of a land-sea pilot region, this formed the basis for the collation of a detailed framework of legal, organisational and planning conditions, the development of methodological planning principles including provisions for environmental assessment, as well as the development of a use concept for the pilot region, in the present Phase 2.

Overall, the listed aspects were examined within a framework of six Work Packages (WP). The Gulf of Finland was identified as a suitable pilot region (WP 1). Next, the framework of legal, organisational and planning conditions (WP 2) was examined and recommendations on methodological planning principles (WP 3) and on the environmental assessment (WP 4) were developed. The work package results were tested in the pilot region in the form of a use concept (WP 5). Recommendations for action and guidelines were derived from all results, and particularly addressed to the Ministry of Economic Development, the Ministry of Transport, and the Ministry of Natural Resources and Ecology of the Russian Federation (WP 6). The insights gained from the consideration of German experiences in maritime spatial planning are intended to support the legislative process, and hereby the establishment of maritime spatial planning in Russia.

Framework conditions for maritime spatial planning

This process also drew on the experiences from Russian territorial planning, which already provides for the principle of sustainable development under consideration of ecological, social and economic aspects. German regional planning also follows the guiding principle of sustainable spatial development. It hereby applies an integrated approach – both on land and at sea – while Russian planning gives priority to the determination of projects (proposals and individual areas) in its planning documents. The dominant role of the federation (national government

perspective) is clearly evident in the Russian planning system. A German approach to the division of the planning area (*Länder* - coastal waters / federal government - EEZ) is unlikely to be feasible. Federal jurisdiction will also apply to coastal waters in Russia, and the federation will only delegate its planning authority to its coastal administrative regions and local authorities in certain fields.

Apart from clear rules for the delegation of authority, the regulation of different uses in the maritime environment, and the resolution of potential conflicts are of particular importance for the new law and its implementation. In view of the already existing maritime uses in the Russian Federation, such as shipping, fishing, or raw material extraction, expected future uses include the development of offshore wind energy, as is the case in Germany. New use types and their challenges can best be met with an integrated planning approach, which also takes ecological issues into due consideration.

The following recommendations are therefore primarily aimed at the development of a legislative draft, which, compared to terrestrial planning, gives justice to the specific requirements of the marine environment. Hereby, and in addition to social and economic aspects of maritime spatial planning, a particular focus on ecological issues is desirable. The current emphasis of the Russian planning system on structural development and economic growth should be expanded to additional development goals, such as the ecosystem approach and the protection of special natural areas.

Experiences in Germany and findings on strengths and weaknesses of the current legal, organisational and planning regulations, as well as environmental assessment instruments have a supporting role in the establishment of maritime spatial planning in Russia. This should assist in the further development of those approaches in the Russian planning system, which already bear a substantial resemblance to the German system.

The legislative draft “On Governmental Administration of Maritime Activities in the Russian Federation”, however, which has been presented by the Ministry of Defence, currently has priority. As long as this law has not been passed, the work on the law on maritime spatial planning rests, as both pieces of legislation need to be synchronised. The time of adoption is yet unclear. At the final symposium of the 2016 Russian forum on “Strategic Regional and Urban Planning in Russia” in St. Petersburg, representatives of the Ministry of Economic Growth expressed their intention to expedite the planned law on maritime spatial planning in Russia. In this context, the recommendations made within the scope of this project create an important foundation and basis for debate for further legislative steps.

Statutory regulations on maritime spatial planning

In Russia, territorial planning law has been primarily established on the basis of the Russian City Planning Code. Since the Law “On Strategic Planning” has been adopted in 2014, all types of planning have been integrated in a unified strategic planning system, which is also supposed to integrate future maritime spatial planning. Other than in terrestrial planning, a separate law would allow to appropriately address the specific planning requirements of the marine environment. The conceptualisation for the legislative proposal “On Maritime Planning in the Russian Federation” also already stipulates key terms such as “Ecological Sustainability of Waterbodies” or “Ecosystem Approach”. Accordingly, these and other principles would need to be substantiated and operationalised further. They would also need to be synchronised with the above-mentioned law “On Governmental Administration of Maritime Activities in the Russian Federation”.

Determination of competent authorities and processes for maritime spatial planning

In comparison with Germany, the marine areas of the Russian Federation are, overall, substantially larger and of a more diverse nature. Natural conditions and potential uses vary greatly in the different regions. In accordance with the Russian planning system, planning areas should be divided based on projects instead of horizontal divisions in coastal waters and EEZ, to ensure the Federation's planning jurisdiction also for territorial waters, unless its authority over certain matters has been delegated to its regions and/or local government. On both the federal level and the level of the subjects of the federation, there already are government authorities in Russia, which perform certain tasks in the maritime realm.

The Marine Board is a subordinate authority of the government of the Russian Federation. As the coordinating body for the domains of maritime activities, shipping, maritime technology, and development of the oceans, the Arctic and Antarctica, it coordinates the efforts of federal and regional executive bodies. It is, in principle, also responsible for the achievements of the objectives of the Marine Doctrine by 2030, however, its authority so far only allows to make recommendations. The regional Marine Councils of the individual subjects, such as the Marine Council of St. Petersburg, also function as coordinating bodies between the executive bodies of the federation, federal subjects, businesses, and organisations. For effective maritime spatial planning, existing structures can be incorporated and refined in future legislation. This seems to require the delegation of planning competence for projects of federal subjects to Marine Councils, while the Marine Board would be required to gain the authority of an independent planning body for projects of federal significance.

The planning preparation procedures could hereby follow the terrestrial approach, based on a coordination process between the Marine Board, regional Marine Councils, and possibly also local authorities. Additional stakeholders of maritime activities, i.e. all interested natural and legal persons, should be included. The kind of maritime spatial planning envisaged should allow for discussion early on, and should define a suitable form of public participation for integrated maritime spatial plans. Up until now, public participation exists in Russia only on the local government level, for masterplans of settlements and municipalities. It is, however, already being discussed in the field of urban planning legislation, to expand options for public participation to the subject and federal levels.

Determination of binding planning statements

The law "On Maritime Planning in the Russian Federation" provides that maritime spatial plans, in their function as strategic planning documents, should be binding. Uses and regulations determined for the "functional zones" are to be considered on all planning levels. It is to be considered, whether the binding character of individual planning decisions should be graded, with legally defined levels. Such levels could be designed with a view to similar objectives and principles of spatial planning in Germany, and should be guided by a final balance of spatial and factual determination, respectively the determinability of planning statements. According to this approach, spatially demarcated zones for example, would require strict observation in all significant strategic plans, while more general statements on development, organisation, and safeguarding of maritime space would have to be considered as guidelines for assessments and discretionary decision-making, and would have to be potentially specified for the

respective planning area. In this context, particularly the more general spatial planning decisions in the regional plans could be given more weight by inclusion of a corresponding legal definition in the legislation on maritime spatial planning.

Preparation of independent environmental expert contribution in the planning area

To ensure a better consideration of environmental concerns in maritime spatial plans, the primary integration of environmental sectoral contributions is recommended, reflecting the former “complex territorial schemes for nature conservation” (TerKSOP) on a regional level, and “complex territorial schemes for environmental protection” (TerKSOOS) on a local level. In doing so, environmental aspects can be considered in the draft plan directly and early on, followed by an iterative adjustment process.

In the long term, it should be endeavoured to ensure the preparation of independent environmental expert contribution for the respective marine waters. Comparable with a “marine” Landscape Plan, the herein contained environmental goals (e.g. protection, maintenance and development of species and habitats) could be (spatially) specified as the foundation of precautionary actions, and the prerequisites and measures for the realisation of these goals could be outlined and reasoned. This would ensure that the maritime area is analysed regarding its ecological inventory and potential, and that corresponding goals, prerequisites, and measures are being outlined from a nature conservation and environmental protection perspective. Furthermore, it is required to implement regulations for the mandatory consideration of substantiated spatially significant goals, prerequisites, and measures from a nature conservation perspective, when preparing maritime spatial plans.

It will be an additional challenge in maritime spatial planning to also focus on and adopt cross-sectionally oriented responsibilities, next to the sectoral tasks of natural and environmental protection. These require the development of important decision-making tools for the integration of other sectoral expert areas (e.g. traffic, energy supply) in the spatial planning assessment.

Based on sectoral expert reports, which allow for an evaluation of the impacts on and carrying capacity of the ecosystem, the implications of existing and planned use claims for the ecosystem and the marine environment can be assessed.

Introduction of a strategic environmental assessment

For the assessment of environmental impacts of human use in Russian maritime spatial planning, environmental assessment tools for the “assessment of environmental impacts” (OVOS) and ecological expertise can be utilised on the approval level for certain investment proposals, with similar content as in German project environmental impact and strategic environmental assessments. Neither during the program and plan preparation phase, nor during strategy development, a separate environmental assessment has been conducted up until now, even though there has been an intense debate on the introduction of a strategic environmental assessment in Russia since 2014. In the period from 2006 to 2008, Russia had already participated in a transboundary environmental assessment as part of the project Nord Stream pipeline. However, the ratification of the Espoo Convention on Environmental Impact Assessment in a Transboundary Context, which is the foundation for this assessment, is still overdue.

In order to recognise ecological impacts of planned maritime activities early on in future planning processes, and to ensure a high level of environmental protection with the implementation of appropriate measures, also in view of human health, the introduction of a strategic environmental assessment for plans, programs, and strategies is still highly recommended.

Procedural regulations for strategic environmental assessments

For the integration of strategic environmental assessments into the Russian planning system, the procedural foundations need to be laid. This includes the establishment of implementing regulations, especially of provisions for the strategic environmental assessment in the Russian Federation, which lay down the methodological foundations and define the SEA procedure more closely.

It is generally considered appropriate to integrate the SEA in the plan preparation process, which, compared to parallel processes, avoids additional coordination and approval requirements. This would require the government authorities in charge of the preparation of strategic documents to initiate and ensure that an SEA is carried out in the selection process for strategic activities. This is consistent with German standard practice.

When implementing an SEA in Russia, it is also advisable to align the content of the environmental report with the OVOS-methodology used in Russia, which already stipulates important procedural steps, such as the description of potential environmental and socio-economic impacts of planning decisions, assessment of alternatives, and monitoring. As a basis for the SEA evaluation, existing Russian standards and objectives should be applied, expanded by maritime aspects. In this context, it is advisable to prepare a separate environmental expert contribution, which proactively collates, respectively newly defines, objectives and resulting necessary measures for a defined planning area from the environmental perspective. This report would then be updated regularly and independently from the maritime plan, and would hereby offer a valuable base for all environmental assessments in this planning area. This would also take full account of the Precautionary Principle.

Preparation of integrated maritime spatial plans

Planning of maritime economic activities and the protection of the marine environment under consideration of specific and environmental legislation is an important area of development in Russian planning practice. Environmental impacts are, however, not yet receiving comprehensive consideration in Russian legislation, as this would require as yet missing instruments, such as environmental sectoral or landscape planning. Recommendations, which were developed in conjunction with German partners, pave the way for the implementation of an integrated approach in environmental assessment, and for the determination of priorities for different types of marine use. During the course of the trials in the pilot region, and reflecting the German categories, the following area categories (zones) were already defined:

- Zone for designated governmental priority use,
- Zone for particular users (dependent on the type of use),
- Zone for protected components of the marine environment and for cultural heritage objects.

Functional zoning facilitates the implementation of environmental objectives through spatial limitations for economic activities. A fundamental principle in context of the preparation of maritime spatial plans is the Ecosystem Approach, based on the model of EU-Law (MSRL, MRO-

RL). Other ecological concepts, such as the concept of Ecosystem Services, are currently still evolving in Russia. Ecosystem Service based assessments of ecosystems continue to gain significance in the German scientific community. It is therefore advisable for the future development of sustainable maritime spatial planning, to incorporate it also in Russia.

Synchronisation between maritime spatial plans, and with territorial planning

Another important aspect in the preparation of maritime spatial plans is the synchronisation on the various planning levels, and the harmonisation of maritime and terrestrial plans. This concerns both, general objectives and specific plan contents. A unified planning authority with adequate planning competence, such as the Marine Board, is of advantage for a maritime spatial planning system, that gives justice to the overarching synchronisation requirements between coastal waters and EEZ in the best possible way. The synchronisation of marine and terrestrial plans could be the responsibility of the federal agency for maritime and river transport. It already performs coordinating duties between the various administrative levels in the area of maritime and river transport, and it could also coordinate the synchronisation of marine and terrestrial coastal plans, with the corresponding expansion of its authority.

Recommended actions and guidelines

For the legal and planning aspects of the establishment of maritime regional development in the Russian Federation, the findings derived from the advisory assistance project have been summarised as recommended actions and guidelines.

They contain references to the general prerequisites for the implementation of maritime spatial planning in the Russian Federation, and include explanatory notes on terminology and definitions for maritime spatial planning in Russia, as well as on objectives and tasks of maritime spatial planning. Furthermore, the legal foundations of maritime spatial planning are discussed in detail.

There are sections on contents and methodology of maritime spatial planning, under consideration of international principles for the implementation of maritime spatial planning in the Russian Federation (based on the 'Gulf of Finland' pilot region). Hereby, principles of spatial planning of maritime activities in the Russian Federation, and the structure and organisation of the maritime planning administration are addressed. Leads are provided for the integration of a comprehensive environmental assessment into the structure of maritime spatial planning.

Suggestions for functional zoning and the development of an information base provide practical advice for the planning implementation. Recommendations close with a specific proposal for an 'Integrated Maritime Plan'.