

MARINE SPATIAL PLANNING INSTRUMENTS FOR SUSTAINABLE MARINE GOVERNANCE

SEAPLANSPACE

COUNTRY MANUAL – GERMANY



SEAPLANSPEACE Country Manual – Germany

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Edited by: Franziska Stoll (EUCC – The Coastal Union Germany)

Proofreading: Justin Nnorom

Graphics and composition: Edyta Wojciechowska-Jadczyk

Photos (cover, p. 3, 6, 10, 13, 14): Franziska Stoll

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2021

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MARINE SPATIAL PLANNING IN GERMANY



1. INTRODUCTION

The Federal Republic of Germany adjoins two seas, the North Sea and the Baltic Sea, both connected via the Kiel Canal and the Danish straits. Germany's planning sovereignty comprises of the German internal and territorial waters as well as the German Exclusive Economic Zones (EEZ), both in the Baltic and the North Sea as follows (Fig. 1, Fig. 2):

- Inland Waters and Territorial Sea (12 nm zone) in the Baltic Sea: 10,900 km²
- The Exclusive Economic Zone in the Baltic Sea: 4,500 km²
- Inland Waters and Territorial Sea in the North Sea: 12,500 km²
- The EEZ in the North Sea: 28,500 km² (European MSP Platform 2020)

The EEZ is, in contrast to the territorial sea, not territory of the Federal Republic of Germany, therefore spatial planning has to respect the freedoms of the UN Convention on the Law of the Sea, e.g., freedom of navigation, overflight and laying of cables and pipelines (BSH 2021).

In the Baltic Sea, the German EEZ borders the EEZ of Denmark, Sweden and Poland, as well as the territorial

seas of the coastal federal states (the so called 'Länder') Schleswig-Holstein and Mecklenburg-Vorpommern.

The German EEZ in the North Sea borders the EEZ of the United Kingdom, the Netherlands and Denmark, as well as the territorial seas of Lower Saxony and Schleswig-Holstein.

For much part of the last century, anthropogenic use of marine space was dominated by traditional shipping and fishing activities. However, with a growing political and economic interest in sectors, such as offshore renewable energy and natural resource extraction, the last few decades have seen a huge increase in the utilization of seas and, with it, a corresponding increase in pressures. This multitude of 'new' uses not only can lead to political and cross-sector discord over marine space, but can also put mounting pressures on the natural environment and be in conflict with national and regional conservation goals. In both the North and Baltic Sea, there are important habitats for specific fish, marine mammals and birds that require protection from unmanaged industrial development (BSH 2021).

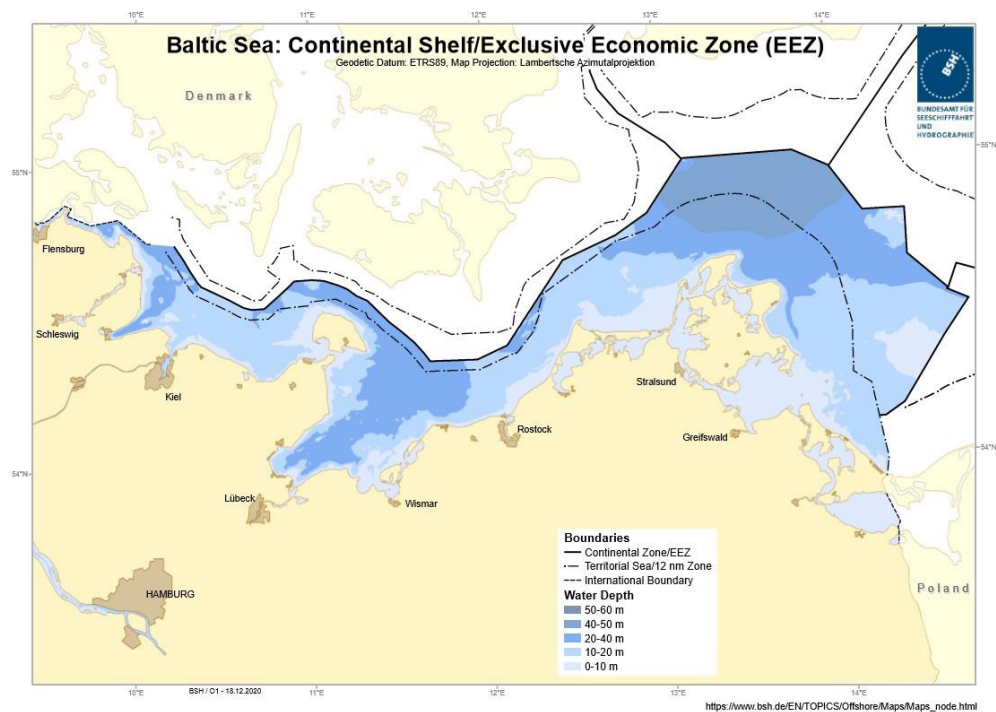


Figure 1: Map of the Baltic Sea, the German EEZ and territorial waters (source: Federal Maritime and Hydrographic Agency, https://www.bsh.de/EN/TOPICS/Offshore/Maps/maps_node.html)

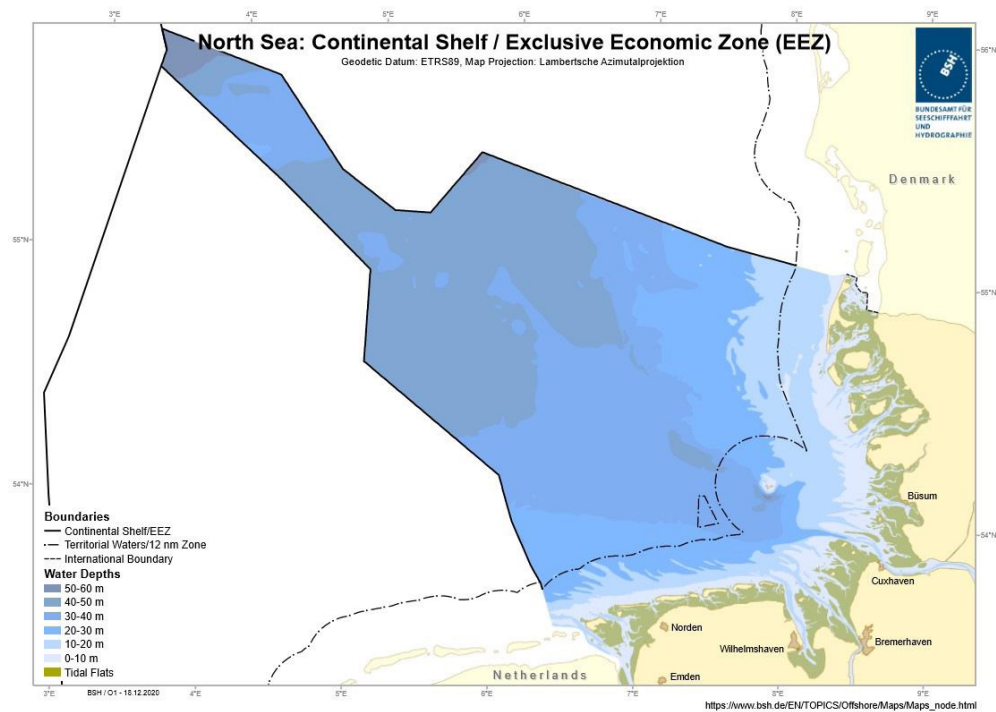


Figure 2: Map of the North Sea, the German EEZ and territorial waters (source: Federal Maritime and Hydrographic Agency, https://www.bsh.de/EN/TOPICS/Offshore/Maps/maps_node.html)

‘Maritime spatial planning plays a decisive role to balance the competing interests of business, science and the environment. It is a forward-looking planning instrument that coordinates user interests and nature protection. [...] As high-level planning, it aims at recording all (planned) human activities at sea, minimising existing conflicts and preventing future problems. Furthermore, it serves to protect the marine environment and nature by placing restrictions on human activities. [...] A special feature of maritime spatial planning, in contrast to land-based spatial planning, is the consideration of the planning space in its three dimensions. The different levels, such as sea surface, water column, seabed or airspace each have special use and protection requirements. On the one hand, this leads to a wider range of area regulations, on the other hand it increases the potential that specific uses are mutually incompatible.’ (BSH 2021)

1.1. THE HISTORICAL DEVELOPMENT OF MSP IN GERMANY

In 2001, the Ministerial Conference for Spatial Planning in Germany (MKRO) adopted a resolution that required the coastal federal states to include Germany's 12-nautical mile territorial waters in their regional development plans and to adapt spatial planning principles to the sea and coastal areas. This resolution formed an important foundation for what we now understand as maritime spatial planning that helps coordinate not only the availability of space but also competing uses. (UBA 2012)

The coastal state Mecklenburg-Vorpommern was a forerunner in practical maritime spatial planning, having adopted its first MSP for the 12 nm zone as early as 2005. Preparations for maritime spatial plans for the German EEZ began in 2004/2005 and were adopted in September 2009 (North Sea) and in December 2009 (Baltic Sea) (Schultz-Zehden & Gee 2013). The revised marine spatial plan for the EEZ in the Baltic and the North Sea came into force in September 2021.

In the following chapters, the legal background and development implementation of MSP in Germany will be described.



THE CONCEPT AND TERMINOLOGY FOR MSP IN GERMANY

2. THE CONCEPT AND TERMINOLOGY FOR MSP IN GERMANY

Originating from spatial planning on land, MSP in Germany uses similar instruments and follows similar principles.

Spatial planning deals with the spatial development of the country, including certain areas of the sea.

'The guiding principle for Maritime Spatial Planning in Germany is sustainable spatial development, which brings social and economic demands regarding space into line with the sea's ecological functions, leading to a permanent, large-scale balanced order. In order to coordinate the growing conflicts regarding maritime uses, in particular between space required by offshore wind farms and marine environmental protection goals, as well as traditional maritime uses such as shipping and fisheries, an integrative and sustainable approach is needed for the development of the German Exclusive Economic Zone (EEZ).'

The guidelines are:

- Safeguarding and strengthening maritime traffic;
- Strengthening economic capacity through orderly spatial development and the optimisation of spatial use;

- The promotion of offshore wind energy use in accordance with the Federal Government's sustainability strategy;
- The long-term sustainable use of the features and potentials of the EEZ through reversible uses, efficient use of space, and priority for marine-specific uses;
- Safeguarding the natural environment by avoiding disruptions to ecological processes and the pollution of the marine environment (European MSP Platform 2020).

2.1. INSTRUMENTS OF SPATIAL PLANNING

In Germany, spatial planning is decentralised, based on the federal structure with the levels of federal, state, and local government. The distribution of competence and functions between the three levels of government results in a system with legally, organisationally, and substantively differentiated planning levels, that are defined and clearly differentiated, and at the same time interlinked by the mutual feedback principle as well as complex requirements of notification, participation, coordination and compliance (Turowski 2005).

In circumstances where planning and/or measures make use of land or have an influence on the spatial development of a specific area, they are then said to be 'spatially significant'. According to the Federal Spatial Planning Act and state spatial planning acts, 'the task of spatial planning is to guide and develop spatial structure in the pursuit of sustainable spatial development' (ARL n.d.). In Germany, spatial planning is implemented on three levels:

- federal spatial planning
- state spatial planning, and
- regional spatial planning. (Turowski 2005)

Spatial planning on a federal level is limited to developing the guiding principles and principles of spatial planning within national boundaries, which provide the legal basis for spatial planning programmes and specifications on both a state and sector level. Local level spatial planning programmes and localised goals thereby comply with both the federal principles and the relevant state specifications.

Within the planning system there are a number of available instruments, namely the statutory plans, programmes and legal framework for safeguarding and implementation. Some supplementary instruments to support informal planning also exist.

Various tools help state and regional planners to develop plans that coordinate competing economic, social, cultural and ecological interests. (ARL n.d.)

Planning tools on state level each German state is required to prepare a comprehensive plan that outlines spatial and structural development within their territory in accordance with Section 8 of the Spatial Planning Act. Where state territories include catchment areas for 'high-order centres' there is also a requirement for the state to prepare regional plans (Section 9 of the Spatial Planning Act). The titles given to the state spatial plans vary from state to state, e.g. state development plan (Landesentwicklungsplan), state spatial structure programme (Landesraumordnungsprogramm), or state development programme (Landesentwicklungsprogramm). Planning cases which only affect subdivisions of a state, come under the spatial and structural development of a regional planning area. These regional plans must comply with and detail the aims and requirements of the state spatial plans that have been laid down. (ARL n.d.)

2.2. DEFINITIONS

The spatial plan coordinates all matters in the planning area. The plan provides regulations (so-called stipulations) in order to enable the best possible use for all individual concerns while at the same time minimising potential conflicts of competing interests.

Spatial plans in Germany contain objectives ('Ziele') and principles ('Grundsätze'). The objectives of spatial planning are binding requirements for developing, organising and safeguarding of space. Objectives have been conclusively weighed up by the spatial planning authority and the decision on the priority has already been made. On a spatial planning map, objectives translate into priority areas, where uses and functions incompatible with the priority function or use are excluded.

Principles are guidelines for the development, organisation and safeguarding of space. They have not been conclusively weighed up but must be considered in further decisions. Principles translate into reservation areas, where uses or functions are given a particular weight when weighing them up against competing functions or uses.

2.3. THE CONTENTS AND EFFECTS OF SPATIAL PLANS

Spatial plans consist of both a descriptive and a graphic representation (texts and maps) of the area of interest. The comprehensive set of objectives and principles found within any spatial planning programme are required for the development, organisation and securing of a specific planning area. The stipulations laid down apply to projects that are spatially significant so as to control proposed space-relevant uses and their functions. Initiatives that do not require new space and/or have no significance on regional spatial development are not affected. Spatial plans, for example, must be observed by public authorities when they are planning or getting approval for both large scale land-uses, such as road constructions, and also for small scale measures that may still have some spatial significance. Public authorities and other planning decision-makers must take the basic plan requirements seriously, the plans have a binding effect and should be implemented as far as is practically possible. Deviations from the plans can only be made by local authorities under exceptional circumstances. Since they are used for weighing up and making discretionary decisions, plan objectives and principles are clear and determinable in terms of their subject and spatial justification. The mandatory nature of spatial planning programmes for public authorities are regulated in Section 4 of the Regional Planning Act.

The objectives and principles of spatial planning do not have the same binding effect on private individuals or private companies, even if their project is deemed to have spatial significance. However, there will be links to the spatial plan in cases where public authorities or public funding is involved, and /or where the company is performing public tasks, e.g., energy supply. In these cases, the private company must also observe spatial plan principles. Private projects may still need to adhere to spatial planning principles if applicable specialist laws express

the need to do so, e.g., Section 35 (3) of the Building Code for certain external building projects. It must also be noted, that spatial planning principles actually have no direct legal effect. They do not replace property rights over land disposal, which may ultimately determine the outcome and final decision about specific projects.

Spatial goals for a particular area and its use can be drawn up without immediate plans for the project to actually be put in place. This prevents the area being designated over to other 'uses'. For example, even after spatial planning approval, there might be financial delays or other obstacles that first need to be overcome before a windfarm can be built. In some cases, this can even lead to individual spatial planning objectives not actually being implemented. Reserved or priority areas or areas that are suitable only for certain uses or functions can get a 'special type' of status in accordance with Section 7 (3) of the Regional Planning Act (Ministry of Food, Agriculture, and Consumer Protection, Lower Saxony, n.d.).

2.4. INFORMAL INSTRUMENTS AND SPECIALIST PLANNING

'Spatial planning and state development instruments are considered informal if they have no statutory binding force. Their purpose is to contribute to the realisation of spatial structure plans. Examples include:

- regional development concepts (Section 13, sentence 3 of the Federal Spatial Planning Act);
- city networks (Section 13, sentence 4 of the Federal Spatial Planning Act);
- contractual agreements on preparing and implementing spatial structure plans (Section 13 sentence 5 of the Federal Spatial Planning Act);
- guiding principles for spatial development (Section 18 (1) sentence 3 of the Federal Spatial Planning Act),
- information systems for spatial development in the country as a whole (Section 18 (5) of the Federal Spatial Planning Act),
- mutual consultation on fundamental and controversial issues (Section 19 (4) of the Federal Spatial Planning Act),
- the Advisory Council on Spatial Planning (Section 20 of the Federal Spatial Planning Act),
- regional conferences (HARA),
- regional management and regional marketing (ARL n.d.).

Informal instruments such as these have grown in importance and are now recognised as acceptable extensions to the spatial structure plans complementing the formal spatial planning instruments. The advantage of informal instruments is that they are more flexible and can be used without any legally binding requirements. Their effectiveness relies on the quality of content and the active involvement of relevant actors and institutions. (ARL n.d.)

These instruments support legally anchored planning procedures. In the area of the sea, for example, these can be concepts from Integrated Coastal Zone Management (ICZM).

2.4.1. ICZM AS AN EXAMPLE FOR INFORMAL PLANNING

ICZM is intended as a process and instrument to bring together various economic and social demands as well as protection interests in the coastal area and to identify development opportunities, potential for conflicts and conflict resolution at an early stage in the run-up to formal planning and approval procedures.

In Germany, the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety, the Federal Agency for Nature Conservation and the Federal Environment Agency jointly developed a German ICZM strategy from 2006 to 2010.

The strategy formulates basic ICZM principles based on the EU recommendation 2002/413/EC, describes and analyses the ecological, economic, social and legal situation in coastal and marine areas and, on this basis, elaborates steps to support the ICZM process and, thus, the implementation of the basic ICZM principles. ICZM is aimed at making a contribution to the development and preservation of coastal zones as an ecologically intact and economically prospering habitat for humankind. ICZM is an informal approach to supporting the sustainability of coastal zones through good integration, coordination, communication and participation. On the one hand, ICZM is a process that should permeate all planning and decision-planning levels as a guiding principle and, on the other hand, it is a tool applied for the purpose of the integrated identification of potential development and conflict as well as for resolving conflicts in an unbureaucratic manner.

ICZM deals with the interactions between the EEZ, the territorial sea (12 nm zone) and the transitional waters in accordance with the Water Framework Directive (WRRRL), the areas adjoining estuaries and influenced by the tides as well as the adjoining rural districts and respective administrative units on shore. (UBA 2012)

2.5. GOALS OF MARINE SPATIAL PLANNING

MSP is described by the EU Directive on Maritime Spatial Planning (European Commission 2014) as 'a process by which the relevant Member State's authorities analyse and organise human activities in marine areas to achieve ecological, economic and social objectives'. MSP is a 'forward-looking planning instrument that regulates the constantly increasing intensity of use, coordinates user interests and protection claims, minimises existing conflicts of use and prevents future conflicts'

MSP provides the following benefits:

- 'Reduction of conflicts between sectors and creation of synergies between different activities
- Encouragement of investments by creating predictability, transparency and clearer rules
- Increased cross-border cooperation between EU countries to develop energy grids, shipping lanes, pipelines, submarine cables and other activities, but also to develop coherent networks of protected areas
- Protection and preservation of the environment through early identification of impact and opportunities for multiple use of space' (European MSP Platform (2) n.d.).

2.5.1. WHICH CONCEPTS AND PRINCIPLES ARE BEING FOLLOWED?

The development of spatial plans does not take place on a blank sheet of paper, instead a number of concepts and principles must be taken into account and implemented at both international and national level.

At international level, the HELCOM-VASAB MSP Principles should be followed in planning in the Baltic Sea Region. In addition, the EU Directive on Maritime Spatial Planning requires the EU Member States to use an ecosystem-based approach when developing binding spatial plans.

2.5.2. HELCOM-VASAB MSP PRINCIPLES

Adopted in 2010 by HELCOM and VASAB, the following principles provide guidance for achieving better coherence in the development of MSP systems in the Baltic Sea Region:

- Sustainable management
- An ecosystem approach
- Long term perspectives and objectives
- The Precautionary Principle
- Participation and Transparency
- High quality data and information basis
- Transnational coordination and consultation
- Coherent terrestrial and maritime spatial planning
- Planning adapted to the characteristics and special conditions in different areas
- Continuous planning (HELCOM n.d.).

2.5.3. AN ECOSYSTEM-BASED APPROACH

The 'HELCOM / VASAB-WG on maritime spatial planning in the Baltic Sea region' adopted the 'Guide for the implementation of the ecosystem approach in the maritime spatial planning in the Baltic Sea region' at the beginning of 2015. It is intended to form the basis for a coordinated marine zoning plan in the Baltic Sea that transcends national borders.

The document includes definitions, information on the political context, key elements for the application of the ecosystem approach in maritime spatial planning and its classification in the planning process, including a table with implementation instructions at individual planning stages. In the Copenhagen Declaration of October 2013, the ministers of the HELCOM states agreed that all states bordering the Baltic Sea would create the legal basis for maritime spatial planning by 2017 and draw up appropriate plans by 2020. Maritime spatial plans should apply the ecosystem approach. The EU directive on maritime spatial planning of July 29, 2014 (2014/89 / EU) also provides for the use of the ecosystem approach.

LEVELS OF MARINE SPATIAL PLANNING IN GERMANY



3. LEVELS OF MARINE SPATIAL PLANNING IN GERMANY

In Germany, the MSP area consists of the coastal area and the Exclusive Economic Zone (EEZ). The EEZ is the seaward area of the territorial sea (12 nautical mile zone) up to a maximum of 200 nautical miles. The planning authority for the territorial sea lies with the respective

coastal federal states, Lower Saxony, Schleswig-Holstein and Mecklenburg-Western Pomerania.

The Federal Maritime and Hydrographic Agency (BSH) carries out the task of marine spatial planning of the EEZ in the North Sea and Baltic Sea, on behalf of the responsible Federal Ministry (in 2021: the Federal Ministry of the Interior, Building and Community (BMI)).

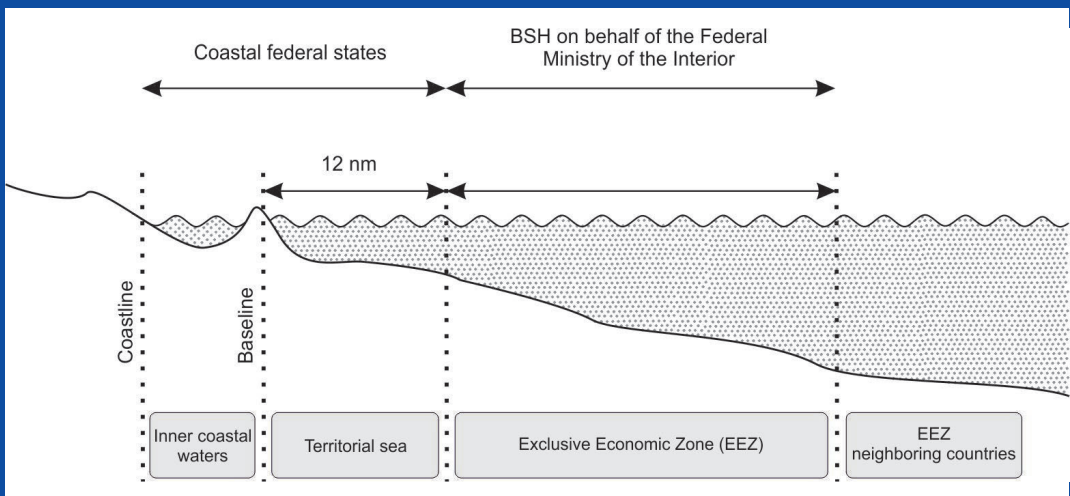


Figure 3: Planning areas and planning authorities in Germany (Adapted from the Swedish Agency for Marine and Water Management, 2019)

3.1. THE LEGAL FRAMEWORK FOR PLANNING AT A NATIONAL LEVEL

The national legal basis for MSP is the Federal Spatial Planning Act ('Raumordnungsgesetz'/ROG), which was made applicable to the EEZ in 2004 and last amended in 2017 to implement the EU Directive on Maritime Spatial Planning. It takes into account the MSP Directive's requirements for transboundary consultation and coordination in MSP, land-sea interactions and the application of the ecosystem approach. The Spatial Planning Act provides the legal basis for the 'Maritime Spatial Plan for the EEZ of the Baltic Sea' and the 'Maritime Spatial Plan for the EEZ of the North Sea'.

The responsibility of creating an MSP in the EEZ lies with the federal government, according to the ROG. The strategic environmental review has, according to § 8 ROG, the responsibility to determine repercussions of the MSP and to describe these in an early environmental report.

National legislation that has to be considered when drawing up the spatial plans in the Baltic Sea is, e.g.:

- The Federal Maritime Responsibilities Act (SeeAufG), as of 26 July 2002, plus related regulations, incl. the Marine Facilities Ordinance (SeeAnlV)
- The Federal Mining Act (BBergG) of 13 August 1980
- The Renewable Energy Sources Act (EEG)
- The Energy Industry Act (EnWG) of 7 July 2005 (and the Grid Expansion Acceleration Act (NABEG) of 28 July 2011)
- The Federal Nature Conservation Act (BNatSchG)
- The Federal Water Act (WHG)
- The Act on the Assessment of Environmental Impacts (UVPG) [European MSP Platform 2021]

International / EU legislation and frameworks have to be considered in MSP, e.g.:

- UNCLOS
- IMO regulations and resolutions
- MARPOL
- MSP Directive 2014/89/EU (adopted in July 2014)
- SEA Directive 2001/42/EC
- Habitats Directive 92/43/EEC
- MSFD 2008/56/EC
- The Baltic Sea Action Plan
- The HELCOM Convention
- VASAB Long Term Perspective
- all relevant EU communication.

At national level, planning is influenced by different ideas, concepts and principles. Examples here are the guiding principles of spatial planning mentioned in the Federal Spatial Planning Act ('Raumordnungsgesetz'/ROG), and the guiding principles of the Ministerial Conference for Spatial Planning, which are jointly developed by the relevant authorities of federal states. In addition, the weighing of interests plays an important role.

GUIDELINE OF SPATIAL PLANNING ACCORDING TO §1 ROG

According to the Federal Spatial Planning Act, spatial planning enables 'sustainable spatial development which will bring the social and economic demands made on an area into line with its ecological functions and result in a stable order which will be well-balanced on a large scale'.

The guidelines for sustainable spatial development set out in the Federal Spatial Planning Act come under eight sub-sections, including the protection and development of the natural bases of life in Germany, the creation of locational prerequisites for economic development, the enhancement of the characteristic diversity of individual regions, and the establishment of equivalent living conditions in all regions. (Pahl-Weber & Henckel 2008)

GUIDING PRINCIPLES OF THE MINISTERIAL CONFERENCE FOR SPATIAL PLANNING (MKRO) 2016

According to Section 26, Paragraph 2 of the Federal Spatial Planning Act, spatial planners within the federal and state governments are to work together to develop joint spatial development models for the whole federal territory. This combined and co-designed documentation is expected to guide action in the future, particularly concerning challenges that should play a special role from a spatial planning perspective. The models and mission statements form a central framework for spatial political goals, planning laws and specific implementation measures and help coordinate federal and state actions.

On March 9, 2016, the Ministerial Conference for Spatial Planning (MKRO) decided upon the current models and spatial planning strategies for Germany. (BMI 2016)

The guiding principles of the MKRO 2016 are to:

- Strengthen competitiveness
- Further develop metropolitan regions
- Strengthen cooperation and networking of spaces
- Support spaces with a particular structural need for action
- Secure infrastructure connections and mobility
- Secure services of general interest
- Consistently apply central location systems
- Expand cooperation
- Secure supplies to sparsely populated rural areas
- Ensure accessibility
- Control the use of space and develop it sustainably
- Minimize spatial conflicts of use
- Create large-scale open space networks
- Design cultural landscapes
- Reduce new land use

LEVELS OF MARINE SPATIAL PLANNING IN GERMANY

- Sustainably control the use of mineral resources and other underground uses
- Sustainably use coastal and marine areas
- Shape climate change and energy transition
- Adapt spatial structures to climate change
- Control the expansion of renewable energies and networks

The guiding principle 3.6 'Sustainable use of coastal and marine areas' is further specified. It is stated that the 'natural potential of the coastal and marine areas should be used and developed sustainably.' In addition, it is stated that 'there are various interactions and increasing conflicts between the uses of the seas and those of the adjacent land areas, which should be viewed in an integrated manner and resolved sustainably through a maritime spatial planning.'

The approaches developed for this provide for:

- The development of a transnational maritime spatial planning approach
- Close involvement of coastal regions and islands in maritime spatial plans and project planning
- The use of the 'Integrated Coastal Zone Management' (ICZM) based on the principle of sustainability as an informal instrument.

WEIGHING OF INTERESTS ACCORDING TO §7 ROG

During the development of spatial plans, the stakeholder participation process ensures that proper consideration for the interests of all affected public and private entities is made. Any statements collected are recorded and appropriately weighed up to ensure that all opinions are taken into account. Where spatial plans cover different planning areas, work by relevant planning departments should be coordinated.

'In preparing decisions in all fields of spatial and sectoral planning, interests typically need to be weighed. This is a key requirement in planning for the benefit of society under the rule of law. A complex theoretical framework has consequently been developed to achieve this in applying building and sectoral planning law. The requirement to weigh interests in urban land-use planning is enshrined in the Federal Building Code [BauBG]. Conflicting public and private interests are to be weighed against each other and given fair consideration. This places a duty on municipalities to ensure:

- that interests are duly weighed,
- that all matters warranting consideration are covered,
- that there is no failure to appreciate the importance of public and private interests,
- and that the balance achieved is proportionate to the objective importance of individual interests.

Within these limits a municipality is free to decide in favour of one interest – and thus against another.' (Pahl-Weber & Henckel 2008)

The weighing and balancing of different interests is a complex process, which, if not approached diligently, can ultimately lead to poor justification assessments being made and ultimately weakened spatial plans. Weighing and balancing errors can be introduced, for example, if not all issues/opinions have been determined in the first place or when specific interests are considered using false objective weighing factors.



PLANNING OF THE TERRITORIAL SEA

4. PLANNING OF THE TERRITORIAL SEA

The territorial sea is an integrated part of the (terrestrial) spatial plans of the coastal federal states Lower Saxony, Schleswig-Holstein and Mecklenburg-Vorpommern. In addition to the ROG, the legal basis for these plans is provided by the respective spatial planning law of each federal state.

THE EXAMPLE OF MECKLENBURG-VORPOMMERN

In Mecklenburg-Vorpommern, spatial planning is governed by the ROG and the Law on Spatial Planning ('Landesplanungsgesetz', LPIG M-V). According to article 6 (1), both the entire 'Land' and territorial waters are covered by the law, but this, however, was not always the case. In fact, Mecklenburg-Vorpommern was the first European coastal state to integrate its 12nm territorial waters into its Spatial Development Programme (SDP). After the realignment process between 2003-2005, the

extended programme to include territorial waters was adopted and became legally binding in 2005. It included new territorial water designations including, for example, marine conservation reservations, tourism, cables and pipelines, and raw material extraction. Based on results from this initial 2005 plan, the SDP was updated by the Ministry of Energy, Infrastructure and State Development of Mecklenburg-Vorpommern between 2013-2015. The updated plan, which was adopted in 2016, covers more human uses and ecosystem services, whilst reflecting current challenges and development trends, such as priority areas for maritime transport, offshore wind energy, coastal protection activities, e.g., sand extraction and commercially important fish spawning /nursery areas. The principles behind the recent changes aim to make spatial development more sustainable in the long-term by balancing the territory's social and economic requirements with ecological needs and environmental protection goals (Ministry for Energy, Infrastructure and Digitalisation M-V 2016).

PLANNING IN THE EEZ



5. PLANNING IN THE EEZ

5.1. HOW DOES THE PLANNING PROCESS WORK?

In general, spatial plan development begins early on with a public announcement of the general planning intentions. Draft documents containing initial indicators and ideas for the plan are made available to public authorities, public associations and the general public to consider and submit comments on. Due to the large number and diverse nature of individual responses and statements submitted, it is necessary for the planning authority to collate and group them by typified issues. The group issues are then weighed against and with each other. The results from this participatory process, along with all other accompanying documentation, are displayed and made publicly available on the internet.

The first maritime spatial plans for the German Exclusive Economic Zone (EEZ) of both the North Sea and Baltic Sea were adopted and came into force in 2009. The preparatory work and procedures required for the preparation and revision of maritime spatial plans for the EEZ is conducted by the Federal Maritime and Hydrographic Agency (BSH), under the supervision and approval of the Federal Ministry of the Interior, Building and Community (BMI). To meet recent changes to maritime spatial

conditions and development trends, a revision of the first EEZ maritime spatial plan was initiated in 2019.

This revision, which started with participatory workshops and technical discussions, accounted for the rapid development in offshore wind energy and the increasing use of marine space for transboundary infrastructure, e.g., cables and pipelines.

The strategic environmental assessment (SEA) of the revised maritime spatial plan was drawn up. The environmental report (in accordance with § 8 ROG) informs about the SEA scope and level of detail and presents the SEA findings along with the likely impacts that the maritime spatial plan will have on the marine environment.

The planning of the revision process is shown in figure 4.

The Federal Ministry of the Interior began the revision process by informing the public and relevant public bodies about the revision process in accordance with § 9 para. 1 ROG. Relevant information on intended plans or already implemented measures were collected from relevant public authorities and between September and December 2019, the BSH, again, conducted workshops and expert discussions, this time covering issues, such as shipping, nature conservation, fisheries, underwater cultural heritage, defence and raw materials.

5.2. NATIONAL CONSULTATION

The BSH used the findings from the workshops and expert discussions to draw up a concept for the latest maritime spatial plans, which considers three different options, each with a different focus. A draft environmental assessment was prepared, and a public hearing arranged to discuss its scope and contents was held in March 2020. In the following September 2020, the BSH laid down the 'investigation framework for the strategic environmental assessment for the revision of the maritime spatial plans in the German EEZ of the North Sea and Baltic Sea' (BSH n.d.). The draft maritime spatial plan for the German EEZ in the North Sea and Baltic Sea, along with the accompanying environmental reports, was published on September 25, 2020. The first and subsequent second draft, that was prepared in April and May 2021, were both subject to consultation rounds with national ministries and departments – the latest round being in June 2021.

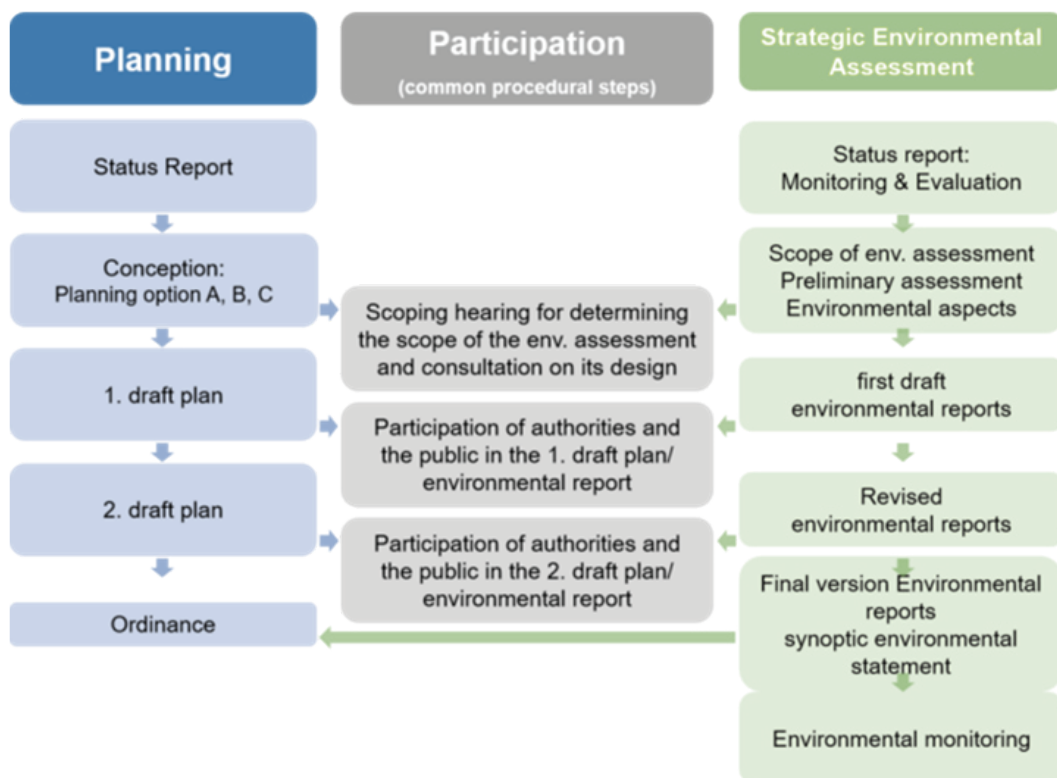


Figure 4: The planning process for the EEZ (Federal Maritime and Hydrographic Agency [2020])

5.3. INTERNATIONAL CONSULTATION

Early in the planning process, in the beginning of 2020, the international consultation for the revision of the maritime spatial plans for the German EEZ started with a notification document, containing details and information on formal consultation procedures, as required by the Espoo convention, like timelines and conditions for participation.

In April 2020, an informal online meeting gave international stakeholders an overview about the state of the revision process. Translated documents of the draft maritime spatial plan and environmental reports were published for comments by authorities and the public in neighbouring countries. In addition, an international consultation meeting took place in January 2021.

Based on the results from the national and international consultations, in November 2020 and January 2021, the draft plan and the environmental reports were revised and further developed in consultation rounds with affected departments at national level in April and May 2021. The BMI, together with the BSH, prepared a second draft of the maritime spatial plan, which was, together with the revised environmental reports, published for a second international consultation in June 2021 (BSH n.d.).

5.4. THE REVISED MARINE SPATIAL PLANS FOR THE GERMAN EEZ

The revised plans came into force on September 1st, 2021. The maritime spatial plan has been published online as text and maps, and via the GeoSeaPortal (<https://www.geoseaportal.de/mapapps/resources/apps/meeresnutzung/index.html?lang=en>).

The new maritime spatial plan coordinates the various uses in the EEZ, and covers the following topics:

- Shipping/Navigation
- Wind energy at sea
- Cables and pipelines
- Raw material extraction
- Fisheries and marine aquaculture
- Scientific uses
- Protection and improvement of the marine environment
- National and NATO defence
- Air traffic

- Recreation
- Underwater cultural heritage (European MSP Platform 2021)

The maritime spatial plan reserves areas for individual uses and, thus, helps to minimise conflicts. A key objective of the maritime spatial plan is to reconcile the above uses with the ecological functions of marine space. (BSH n.d.)

5.4.1. THE MARITIME SPATIAL PLAN FOR THE GERMAN EEZ IN THE BALTIC SEA (2021)

The following specific sectors are covered in the plan:

- Shipping
- Offshore wind energy
- Cables
- Extraction of raw materials
- Scientific research
- Nature protection
- National and alliance defence

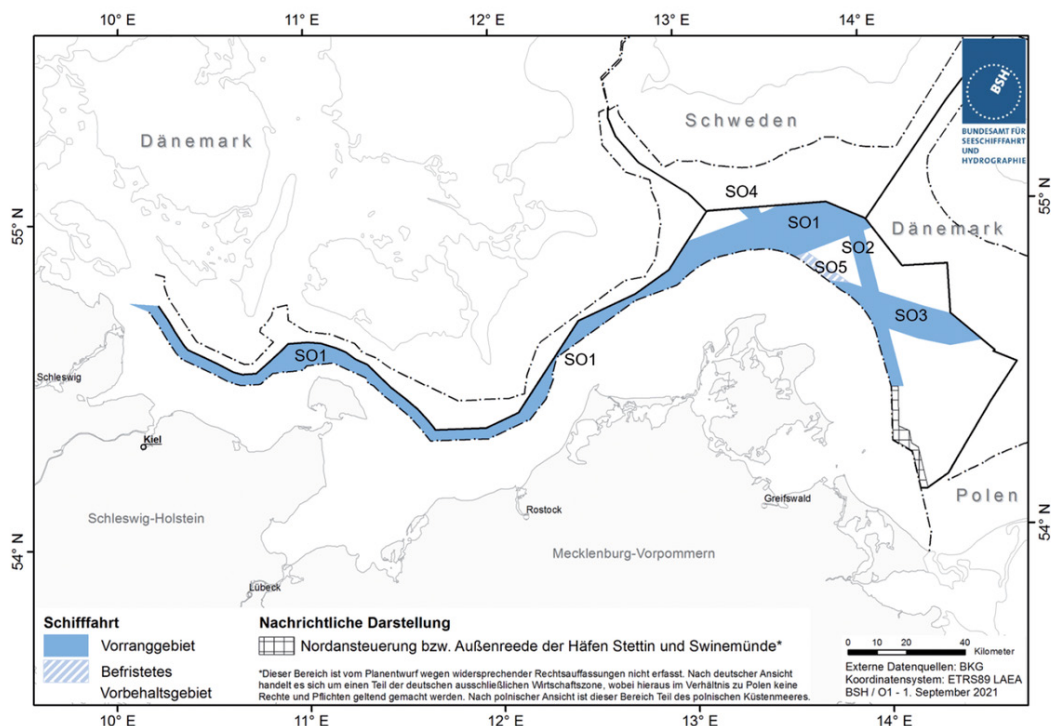


Figure 5 Designated areas for shipping in the EEZ in the Baltic Sea (Federal Maritime and Hydrographic Agency 2021)

Areas SO1 to SO4, in Figure 5, are designated as shipping priority areas. When priority areas for shipping overlap with priority areas for nature conservation, shipping is prioritised (UNCLOS). Area SO5 is designated as a temporary reserved area for shipping until December 31, 2025. The time limit does not apply if the federal ministry responsible for shipping proves to the federal ministry responsible for spatial planning by June 30, 2022, that this area is required for shipping for imperative reasons of safety and ease of shipping. (BSH 2021b)

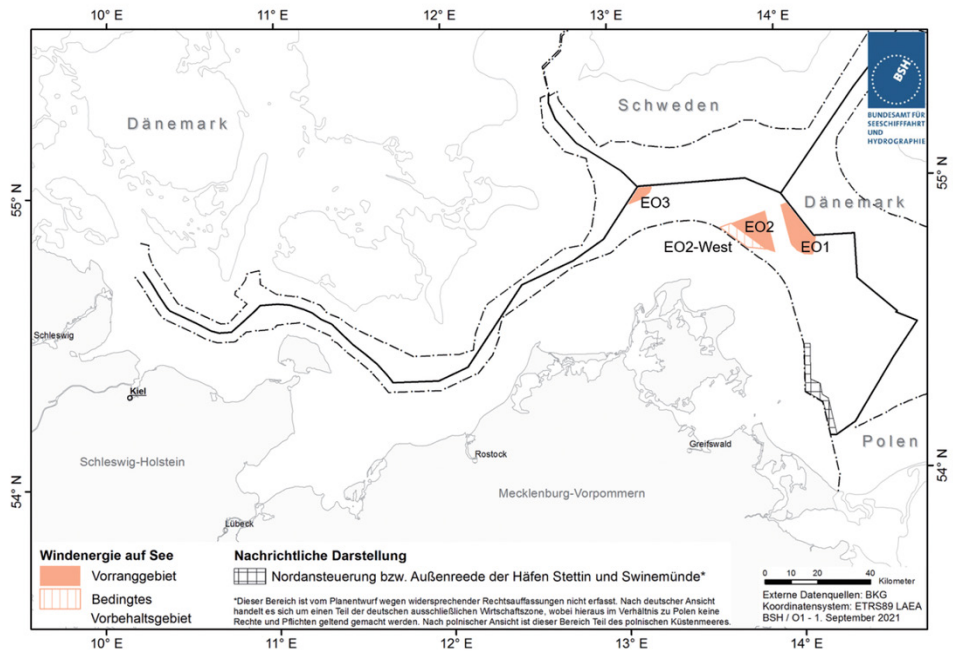


Figure 6: Designated areas for offshore wind energy in the EEZ in the Baltic Sea (Federal Maritime and Hydrographic Agency 2021)

Areas EO1 to EO3, in figure 6, are priority areas for offshore wind energy. Area EO2-West is designated as reserved area for offshore wind energy from January 1, 2025, unless the area is required for shipping. (BSH 2021b)

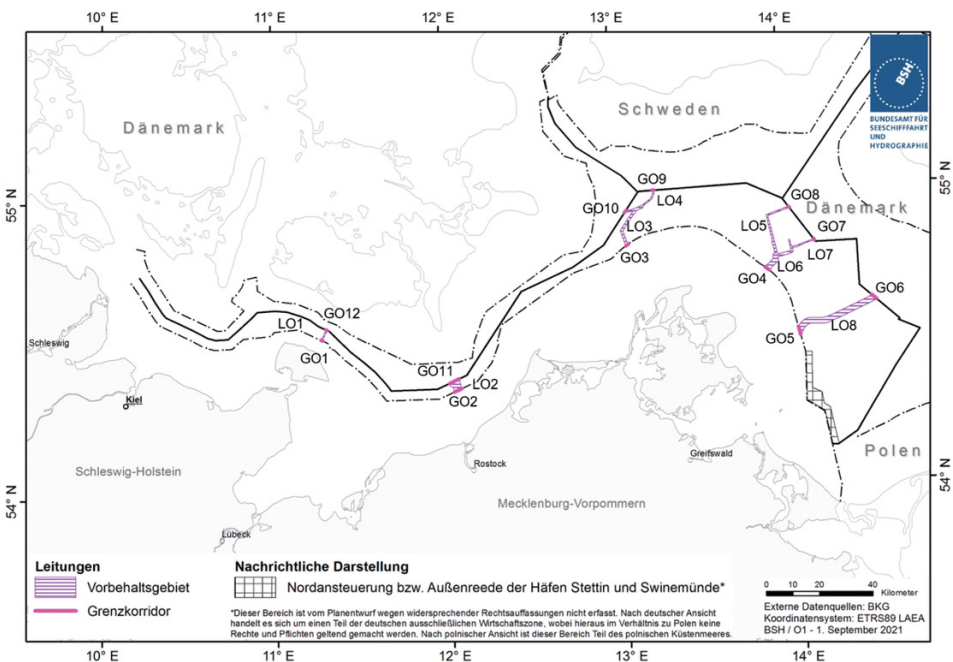


Figure 7: Areas for cables in the EEZ in the Baltic Sea (Federal Maritime and Hydrographic Agency 2021)

Areas LO1 to LO8, in Figure 7, are designated as reserved areas for cables. Cables should be routed in designated reserved areas. Cables should be routed in the transition zone to the territorial sea through corridors G01 to G05. Conflicting uses are excluded in these corridors. (BSH 2021b)

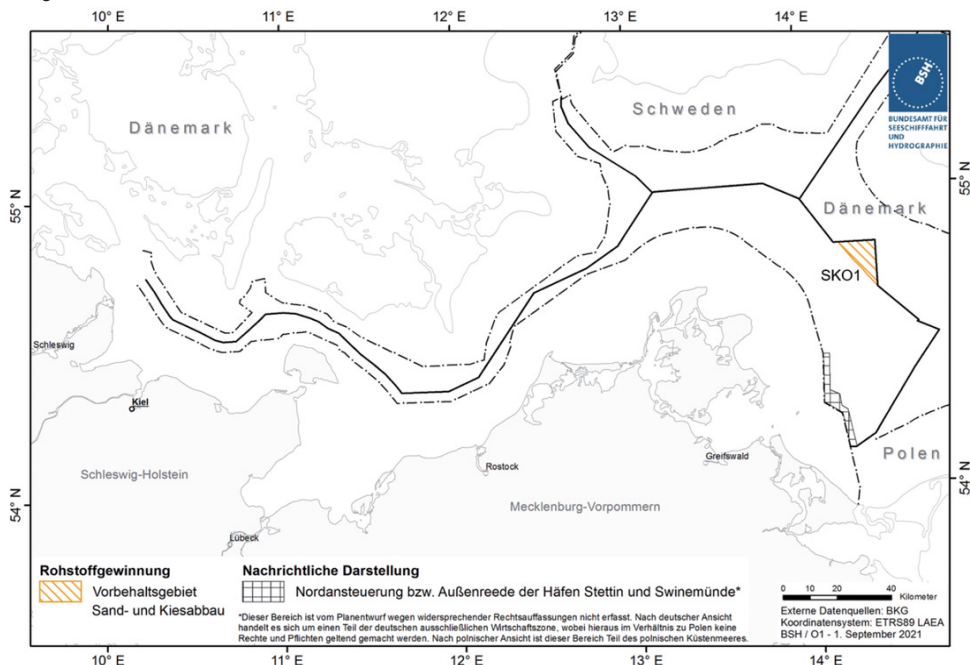


Figure 8: Areas for the extraction of raw materials in the EEZ in the Baltic Sea (Federal Maritime and Hydrographic Agency 2021)

Area SKO1, in Figure 8, is designated as reserved area for sand and gravel extraction.

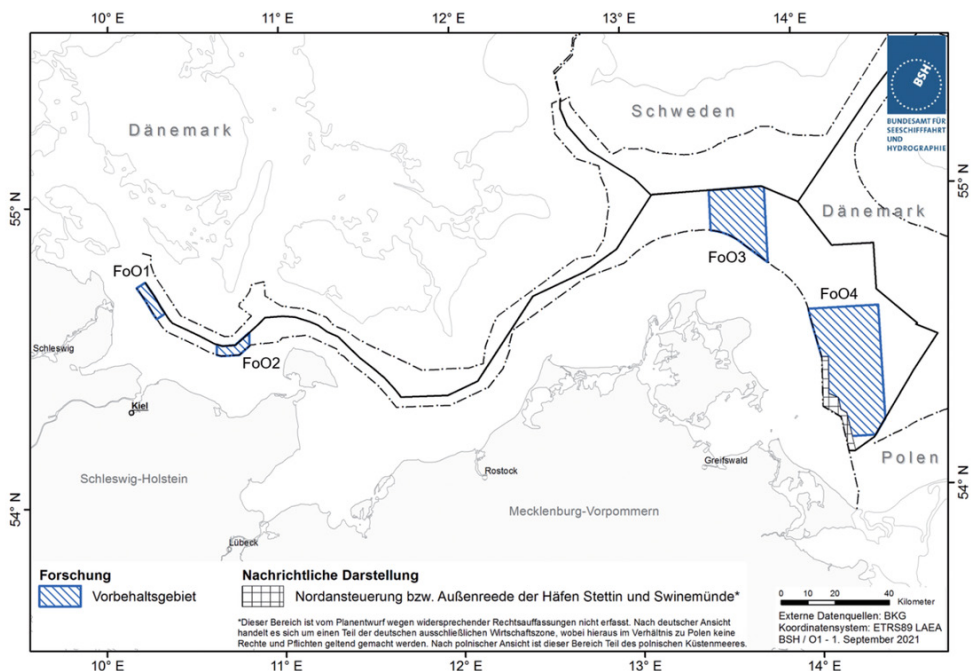


Figure 9: Designated Areas for Research in the German EEZ in the Baltic Sea (Federal Maritime and Hydrographic Agency 2021)

Areas Fo01 to Fo04, in figure 9, are designated as reserved areas for scientific research. Research activities should be carried out in such a way that the safety and ease of transport, the expansion of wind energy at sea, national and alliance defence and cultural heritage are affected as little as possible. (BSH 2021b)

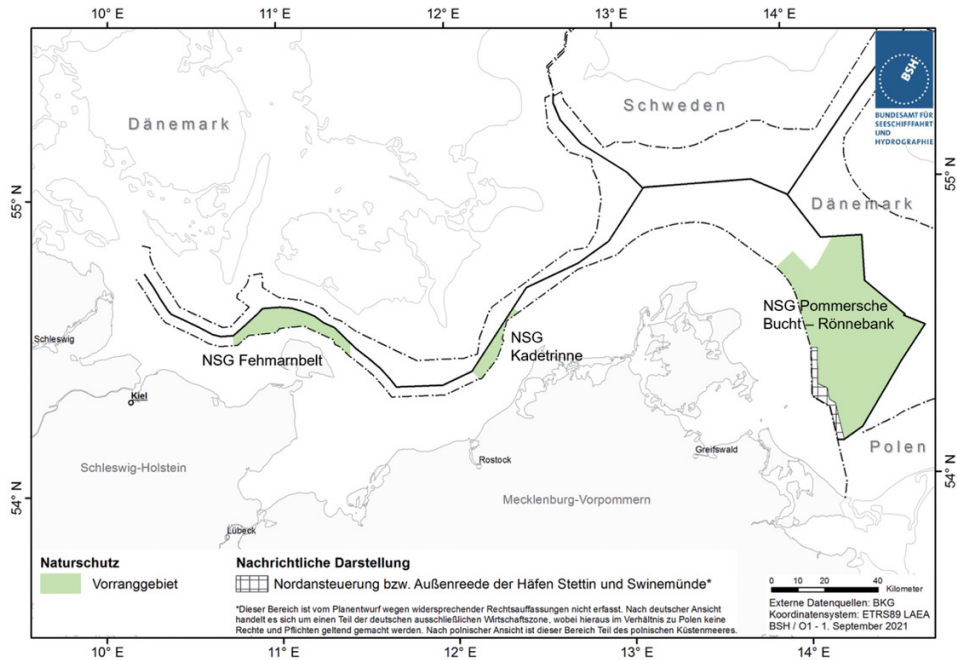


Figure 10: Areas for nature protection (Federal Maritime and Hydrographic Agency 2021)

Figure 10 shows the national marine protected areas Fehmarn Belt, Kadet Trench ('Kadetrinne') and Pomeranian Bay – Rönnebank (except the area of the northern approach and the outer roadstead of the ports of Szczecin and Swinoujście), which are designated as priority areas for nature conservation, according to their protection purposes. In Figure 11, bird migration corridors in the Baltic Sea are shown. The definition of the bird migration corridors 'Fehmarn-Lolland' and 'Rügen-Schonen' takes into account the particular importance of bird migration over the Fehmarnbelt and over Rügen to Sweden. In times of mass movements of birds in the area of offshore wind turbines, protection measures can be taken to decrease the collision of birds with wind turbines. (BSH 2021b)

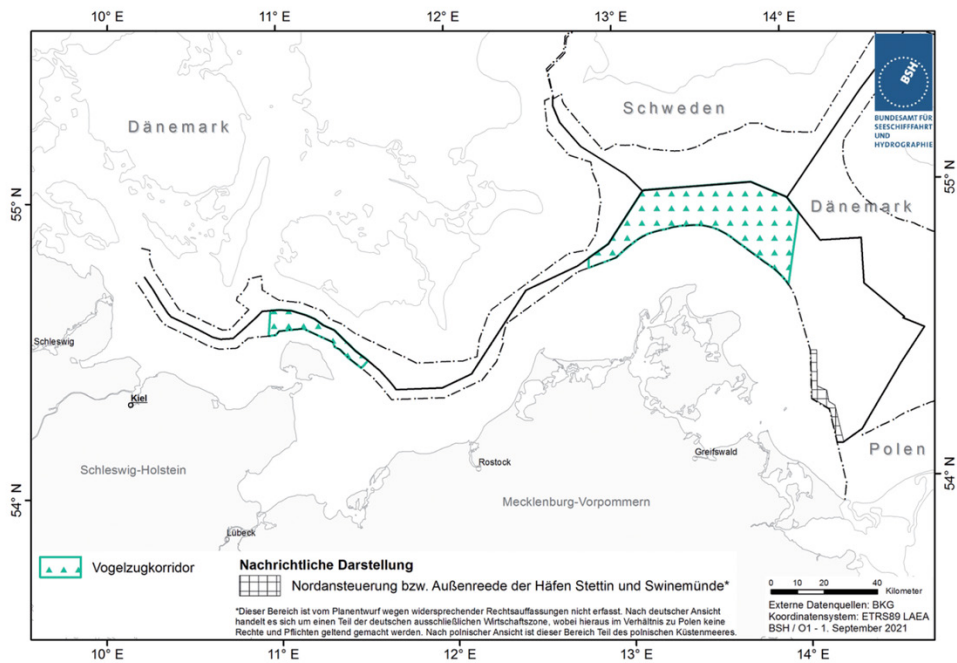


Figure 11: Bird migration corridors “Fehmarn Lolland, Rügen Schonen” (Federal Maritime and Hydrographic Agency 2021)

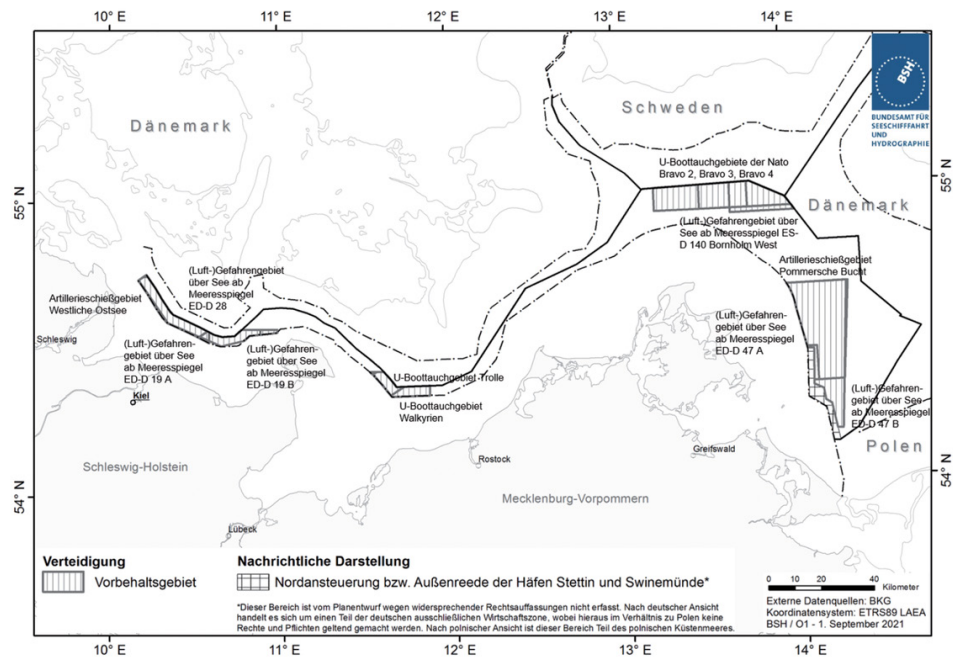


Figure 12: Areas for national and alliance defence (Federal Maritime and Hydrographic Agency 2021)

Figure 12 shows the designated reserved areas for defence in the Baltic Sea, according to their military purposes.

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