



Natura 2000 and fishing

Application of Article 6 of the Habitats Directive and Article 4 of the Birds Directive to marine fishing activities

Nature Conservation Unit,
DG Environment

Natura 2000 & fishing



- Habitats & Birds Directives: Natura 2000 sites for...



9 marine habitat types

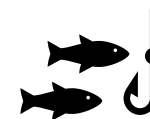


16 species



60+ bird species

- Currently **>3000** marine Natura 2000 sites, covering **>9%** of the total EU Member States' marine area
- Fishing activities are widespread**, often predating the designation of the sites



Natura 2000 & fishing

- **Commercial and recreational fishing** activities can pose threats to habitats and species protected in these areas
- **Compliance** with Article 6 of the Habitats Directive and Article 4 of the Birds Directive may require **regulating fishing activities**
- In 2024, at EU level, **only 4% of the area of marine Natura 2000 sites** had all necessary fisheries management measures in place (according to Member States' data)



Aim of the guidance

- Help Member States **correctly implement** the provisions for management of Natura 2000 sites in relation to commercial and recreational fishing activities, to achieve relevant **policy targets and legal obligations**



- Reflects the views of the Commission only and is of a **non-legally binding nature**

Background

- Announced under the **EU marine action plan**:

Improving governance, stakeholder involvement and outreach

The Commission will:

- By the end of 2024, adopt a guidance document on Natura 2000 and fisheries

- Draws on the **general guidance** on the application of Article 6 of the Habitats Directive, relevant **CJEU case law** and **Member State experience**
- Prepared in consultation with other Commission Services
- Available in all EU languages [EUR-Lex - 52025XC05392 - EN - EUR-Lex](#)



Outline of the guidance

1. Introduction

2.- 6. Applying **Article 6 of the Habitats Directive and Article 4 of the Birds Directive** to fishing activities

7. **Application of article 6 HD & article 4 BD in the context of the common fisheries policy**

7.1. **Measures** that may be adopted by Member States at **national level**

7.1.1. National measures under the common fisheries policy Regulation

7.1.2. National measures under the Technical Measures Regulation

7.1.3. National measures under other regulations

7.2. **Measures** that Member States may propose for **adoption by the EU**

8. **Measures outside the common fisheries policy** applicable to fishing vessels

9. Annexes: **Examples**



The legal framework

Habitats Directive



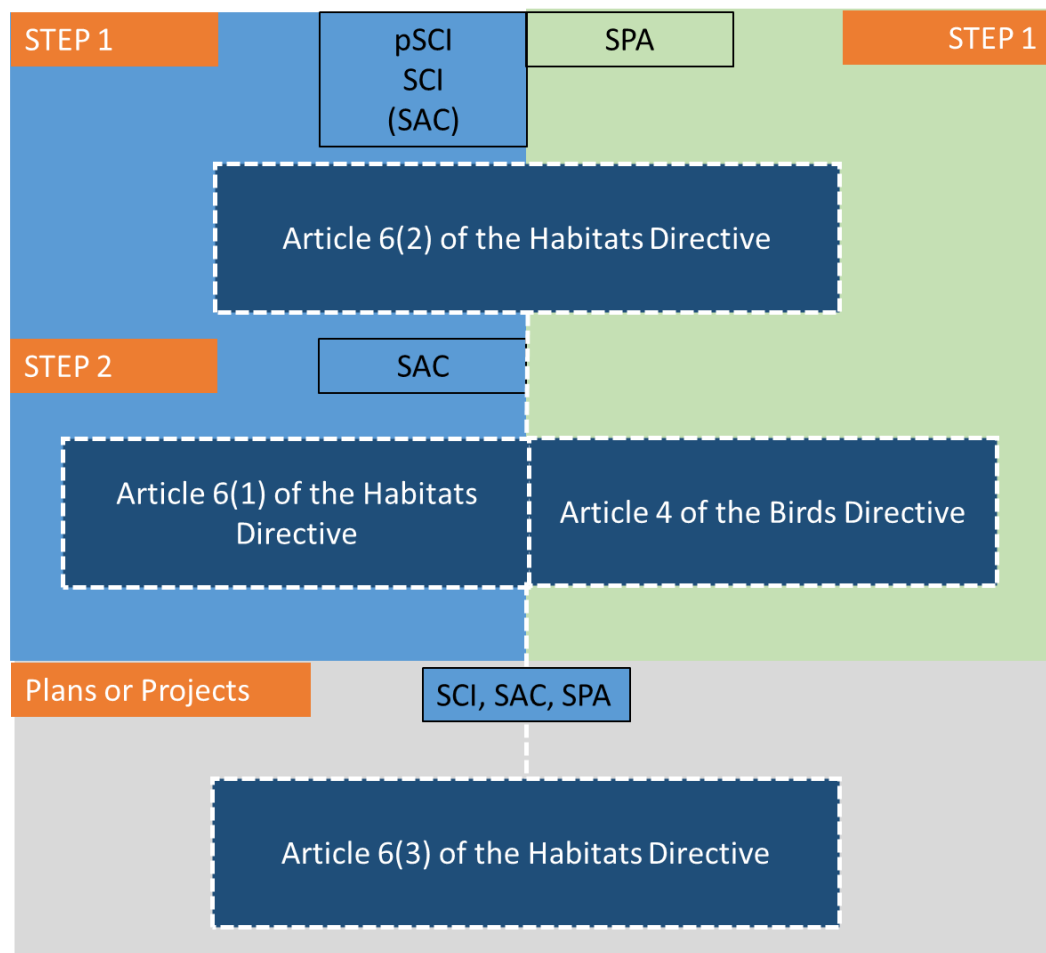
- **Article 6(1):** Member States must establish the **necessary conservation measures**
- **Article 6(2):** obligation to **avoid habitat deterioration** and significant **disturbance of species**
- **Articles 6(3) and (4):** procedures for assessing and authorising **plans or projects** likely to have a significant effect on a Natura 2000 site

Birds Directive



- **Article 4: set rules similar to Article 6(1)** of the Habitats Directive for Special Protection Areas (SPAs)
- **Article 7 of the Habitats Directive:** extends **Articles 6(2), (3) and (4)** to **SPAs**

General framework of application



- First step: **identify fishing activities** that are likely to pose a **risk of deterioration** for the habitat types or habitats of species and/or **risk of significant disturbance** for the species protected
- Following this step, Member States should **put in place appropriate measures to avoid deterioration of habitats and significant disturbance of species**, as soon as the site is proposed for designation as a site of Community importance or classified as a special protection area (Article 6(2))
- Second step: consider which **measures**, that go beyond merely ensuring avoidance of deterioration of habitats or significant disturbance of species, may need to be put in place **to reach the site's conservation objectives** (Article 6(1))
- Particular circumstances: if fishing activities are considered as **plans or projects** affecting the site and not directly connected with or necessary to the management of the site, these have to be **assessed in accordance with specific procedure** (Article 6(3))

Theoretical examples

- **Dredging in a SAC (reefs):**
 - Ban or restrict dredging gear known to damage reef habitats (Article 6(2))
- **Fishing in a SAC (feeding area of marine mammals):**
 - Regulate fishing to maintain prey availability, reduce bycatch, and prevent habitat deterioration (articles 6(1) & (2))
- **Fishing Permits:**
 - Any permit or renewal authorising fishing in a Natura 2000 site, allowing specific fishing activities during a specified period in a given area or for a given fishery under specific conditions, must undergo an **appropriate assessment** (Article 6(3))



Article 6(1) of the Habitats Directive

*For special areas of conservation, Member States shall establish the **necessary conservation measures** involving, if need be, appropriate management plans specifically designed for the sites or integrated into other development plans, and appropriate statutory, administrative or contractual measures which correspond to the **ecological requirements of the natural habitat types in Annex I and the species in Annex II present on the sites.***



Article 4 of the Birds Directive

1. The species mentioned in Annex I shall be the subject of **special conservation measures** concerning their habitat in order to ensure their survival and reproduction in their area of distribution. In this connection, account shall be taken of:

- (a) species in danger of extinction;
- (b) species vulnerable to specific changes in their habitat;
- (c) species considered rare because of small populations or restricted local distribution;
- (d) other species requiring particular attention for reasons of the specific nature of their habitat.

Trends and variations in population levels shall be taken into account as a background for evaluations. Member States shall classify in particular the most suitable territories in number and size as special protection areas for the conservation of these species in the geographical sea and land area where this Directive applies.

2. Member States shall take similar measures for regularly occurring migratory species not listed in Annex I, bearing in mind their need for protection in the geographical sea and land area where this Directive applies, as regards their breeding, moulting and wintering areas and staging posts along their migration routes. To this end, Member States shall pay particular attention to the protection of wetlands and particularly to wetlands of international importance.



Application of Art. 6(1) HD & Art. 4 BD

As regards fishing activities, appropriate conservation measures may include:

- **regulating catches or fishing effort**
- **setting technical measures** (e.g. **closures, gear adaptations and minimum sizes for species** or **use of alternative gear**)

Good practice: **consult and involve stakeholders** in defining the necessary conservation measures

Example:

Aire Marine Protégée



Côte agathoise



Example of Article 6(1) application

- **Context:**

Germany reported **unfavourable conservation status** for habitat types **Sandbanks (1110) and Reefs (1170)** in the marine Baltic region (2013-2018)

- **Action taken:**

Fisheries management **measures under the CFP Regulation** (Articles 11 and 18) have to be implemented

Consultation with the **Baltic Sea Advisory Council (BSAC)**

Germany (as **initiating Member State**) together with DK, EE, LV, LT, PL, FI and SE, **jointly proposed conservation measures to the Commission** (Sept 2022) in five SACs

- **Outcome:**

Year-round exclusion of fisheries with mobile bottom-contacting gear in some areas or entire SACs

Measures were adopted as a **Commission delegated regulation** (2024/2943/EU)

6.1 Proposed measures for the Fehmarn Belt SAC

6.1.1 Measure 1: Exclusion of fisheries with mobile bottom-contacting fishing gears in the Fehmarn Belt SAC to protect the habitat types 1110 'Sandbanks' and 1170 'Reefs'.

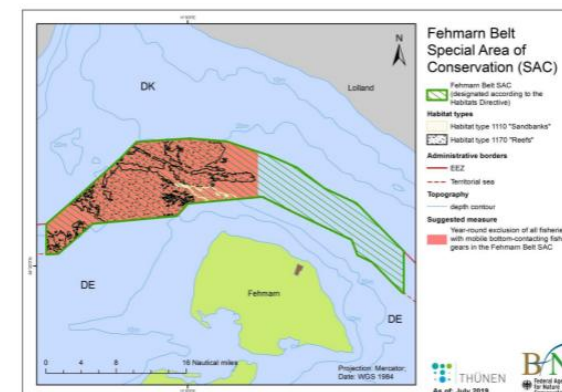


Figure 5: Measure 1: Year-round exclusion of fisheries with mobile bottom-contacting gears in the Fehmarn Belt SAC for the protection of the habitat types 1110 'Sandbanks' and 1170 'Reefs'.

This concerns the following mobile bottom-contacting fishing gears (complete list, even if some of the fishing gears listed are currently not used or not authorised in this area):

- beach seines SB
- Danish seines SDN
- Scottish seines SSC
- pair seines SPR
- beam trawls TBB
- bottom otter trawls OTB
- bottom pair trawls PTB
- otter twin trawls OTT
- boat dredges DRB

Article 6(2) of the Habitats Directive

*Member States shall take appropriate steps to **avoid, in the special areas of conservation, the deterioration of natural habitats and the habitats of species as well as disturbance of the species** for which the areas have been designated, in so far as such disturbance could be significant in relation to the objectives of this Directive.*



Application of Art. 6(2) HD

- Fishing activities may fall under the scope of Article 6(2) if they are **likely to cause** deterioration of natural habitats or significant disturbance of species for which a site has been designated
- This concerns **ongoing fishing activities both within and outside a Natura 2000 site**, if there is a risk of causing deterioration of habitats or significant disturbance of species
- Applies to **all kinds of fishing activities**, both recreational and commercial, regardless of the basis on which permits or licences, if any, were issued and regardless of whether the potential impact of the activity is intentional or unintentional



Application of Art. 6(2) HD

- Preventive measures to avoid deterioration of habitats and significant disturbance of species should be put in place **at the time of site designation**, even if fishing activities were regularly occurring in the area before the designation of sites
- If sites host **habitats in not good condition** due to damaging fishing activities regularly occurring in the site, measures under Article 6(2) should take account of the fact that the recovery of the habitats starts immediately after the damaging activity has ceased, although recovery may not be noticeable immediately
- Member States must take preventive measures **to avoid further occurrence of such damaging activities** that would result in the continuous deterioration of the habitats in the sites or in those habitats remaining permanently in poor condition



Application of Art. 6(2) HD

- To determine if fishing activities are likely to cause deterioration of habitats or significant disturbance of species, their potential impact must be assessed against the **site-specific conservation objectives**
- It is crucial to have **the information about habitat types and species protected in the site and fishing activities conducted** or likely to be conducted in the future, inside and around the site
- This information should then be used to compile **conflict matrices** for each site
- **In case of uncertainty**, for example due to lack of data about habitats or species, fishing effort or impact of certain fishing gears, **the precautionary approach** should be applied until sufficient data is collected



Example of Article 6(2) application

- **Context:**

In seven Danish Baltic sea sites, **reef structures (habitat type 1170)** were in '**unfavourable**' status due to physical disturbances and nutrient loads

- **Action taken:**

Natura 2000 management plans identified **fishing with mobile bottom-contacting gear** as a **threat** to reef structures and a possible threat to sandbanks

To ensure adequate protection and contribute to: (i) the obligation of achieving favourable conservation status and (ii) complying with Article 6(2) of the Habitats Directive, DK– together with SE and DE – **jointly proposed conservation measures to the Commission** (March 2015)

- **Outcome:**

Prohibition of all fishing activity with bottom-contacting gear in the restricted areas

Measures were adopted as a **Commission delegated regulation** (2017/117/EU)

Proposal for fisheries management measures in Danish Natura 2000 sites in the western Baltic Sea – FINAL

Figure 5a. Maps of Munkegrund showing reef structures, proposed buffer zones and VMS positions for Danish vessels above 12 meters.



Article 6(3) of the Habitats Directive

***Any plan or project** not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be **subject to appropriate assessment of its implications for the site in view of the site's conservation objectives**. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.*



Application of Art. 6(3) HD

‘Plans’ and ‘projects’:

- **Maritime spatial plans** (Directive 2014/89/EU), if they include fishing activities
- **Specific fisheries management plans** (for fisheries by trawl nets, boat seines, shore seines, surrounding nets and dredges within Member States' territorial waters, adopted by Member States **under Regulation 1967/2006/EC** (**‘Mediterranean Regulation’, Article 19**), if they are likely to have a significant effect on a Natura 2000 site in view of its conservation objectives
- **Specific permits that are issued or renewed to carry out fishing activities during a specified period, in a given area or for a given fishery under specific conditions**, for fishing activities which have not been directly regulated by any CFP regulation
- **Changes in fishing intensity**, may need to be considered under Article 6(3), particularly if they are subject to **specific permit requests**, unless already addressed under Articles 6(1) and 6(2)



Application of Art. 6(3) HD

- **Conservation measures regulating fishing activities** could -depending on their content- be considered “plans or projects (...) directly connected with or **necessary to the management of the site**” and therefore be **exempted** from the appropriate assessment under Article 6(3)
- However, the **likely effects of those measures**, such as displacement of fishing activities to the same or other Natura 2000 sites, or the effects of gear adaptation which benefits one species protected in the site but may affect another, **should be carefully examined** and, if appropriate, **undergo an assessment**



Example of Article 6(3) application

Ireland: permits to fish cockles (*Cerastoderma edule*) in Dundalk Bay (SPA IE0004026 and SAC IE0000455)

- A draft Fisheries Natura plan (2021) set management arrangements to be taken by vessel owners holding permits to fish cockles in Dundalk Bay
- The Minister for Agriculture, Food and the Marine required an appropriate assessment of the draft plan, under Article 6(3) of Habitats Directive
- The Marine Institute prepared an appropriate assessment report which was published for six-weeks of public consultation
- Following receipt of submissions, and in conjunction with the outcome of the appropriate assessment, the Minister adopted a modified version of the Fisheries Natura Plan



Example of Article 6(3) application

Netherlands: permit requests for *Ensis* fishing within several Natura 2000 sites

- Submission in 2024, of a new permit request for *Ensis* fishing within several Natura 2000 sites to the Dutch ministry of Agriculture, Nature and Food Quality
- Such a permit request needs to be accompanied by an appropriate assessment outlining any possible negative effects of the activity on the conservation objectives of the respective Natura 2000 sites, or on the natural characteristics of those sites
- Based on the assessment, permits for *Ensis* fishing were granted within specific areas of the Natura 2000 sites under certain conditions and limited validity (six years)
- Thereafter a new permit request must be submitted, accompanied by a new appropriate assessment



Article 6(4) of the Habitats Directive

*If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, **a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature**, the Member State shall take all **compensatory measures** necessary to ensure that the overall coherence of Natura 2000 is protected. It shall inform the Commission of the compensatory measures adopted.*

Where the site concerned hosts a priority natural habitat type and/or a priority species, the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest.



Application of Art. 6(4) HD

- Article 6(4) may be applied to fishing activities which have a significant impact on a Natura 2000 site, demonstrated through the procedure of Article 6(3), under certain conditions:
 1. alternatives have been considered and it can be demonstrated that the version put forward for approval is the least damaging for habitats and species and for the integrity of the Natura 2000 site;
 2. there are imperative reasons of overriding public interest, including ‘those of a social or economic nature’;
 3. all compensatory measures required to protect the overall coherence of the Natura 2000 network have been put in place



In the sphere of fishing...

- **Alternatives:** It should be demonstrated that the species targeted by fisheries in question:
 1. cannot be caught with other gear that has no significant impact on the site
 2. cannot be caught in another area outside the Natura 2000 site
 3. that different species cannot be used for achieving the food provision objective
- **Public interest of social or economic nature:** in coastal areas heavily reliant on fisheries, such interest can be related to the importance of fishing as the primary or exclusive source of employment and income for the local community
- **Compensatory measures:** ie habitat creation, habitat restoration, population reinforcement, species reintroduction, etc. (Note: in the marine environment, re-establishment of habitats may be uncertain and challenging (in particular at large spatial scales), costly and can take decades)



In the context of the CFP

- Conservation of marine biological resources under the common fisheries policy (CFP) is an **exclusive competence** of the European Union
- Measures for compliance by Member States with Article 6 of the Habitats Directive and Article 4 of the Birds Directive must be adopted **according to the CFP rules and procedures**
- Many CFP tools for the management of fishing activities under the different fisheries regulations can be used for this purpose



Fisheries conservation measures

In principle, fisheries conservation measures are adopted by the EU by means of the ordinary legislative procedure (co-decision)

Examples of measures relevant for N2000 sites:

- the prohibition of or restrictions on the use of certain fishing gear and methods, such as explosives, percussive instruments, coral-harvesting dredges and grabs or driftnets
- the prohibition of fishing with certain mobile bottom-contacting gear in the Mediterranean above beds of *Posidonia oceanica* and other seagrasses and above coralligenous habitats and maerl beds
- the prohibition on fishing below a certain depth in areas where vulnerable marine ecosystems occur or are likely to occur



Fisheries conservation measures

In some cases and under certain conditions, Member States are empowered to adopt national conservation measures affecting fishing activities

If other Member States have a direct management interest in the fisheries to be affected by conservation measures in one Member State's Natura 2000 sites, the **Member States concerned** may submit to the Commission a **joint recommendation** containing the necessary conservation measures

Finally, in some cases **the Commission can adopt or initiate the adoption of relevant measures**. These measures apply for a limited time

Measures adopted at national level

National measures under the common fisheries policy regulation

Article 11(1) allows Member States to adopt conservation measures in their Natura 2000 sites, if those measures do not affect vessels from other Member States, provided that those measures are compatible with the objectives set out in Article 2 of the CFP Regulation and are necessary for compliance with Member States' obligations under EU environmental legislation (Article 13(4) of the MSFD, Article 4 of the Birds Directive or Article 6 of the Habitats Directive).

Article 19: a Member State may adopt measures to conserve fish stocks in EU waters. These would apply solely to fishing vessels flying its flag.

Article 20: a Member State may take non-discriminatory measures to conserve and manage fish stocks and maintain or improve the conservation status of marine ecosystems within 12 nautical miles of its baselines. This is only permitted, however, if the EU has not adopted measures addressing conservation and management specifically for that area or specifically addressing the problem identified by the Member State concerned.

Article 13 empowers Member States to adopt emergency measures, under certain conditions, on the basis of evidence of a serious threat to the conservation of marine biological resources or to the marine ecosystem that requires immediate action.



Measures adopted at national level

National measures under the technical measures regulation

Article 11(4): a Member State may, on the basis of the best available scientific advice, for vessels flying its flag, put in place mitigation measures or restrictions on the use of certain gear as a means of minimising – and, where possible, eliminating – the catches of marine mammals or marine reptiles referred to in Annexes II and IV to the Habitats Directive and of species of seabirds covered by the Birds Directive

Article 12: the Member State in question may establish closed areas or other conservation measures to protect certain sensitive habitats or vulnerable marine ecosystems in waters under its sovereignty or jurisdiction

National measures under other regulations

Article 7(2) of the Mediterranean Regulation allows Member States to designate national fishing protected areas, within their territorial waters, to conserve and manage living aquatic resources or maintain or improve the conservation status of marine ecosystems

Article 19(2) of the same Regulation allows them to designate national management plans for certain fisheries in territorial waters, which can include measures to increase the selectivity of fishing gear, reduce discards or limit the fishing effort



Regionalisation

Measures under the common fisheries policy regulation

Article 11(2) and (3) where other Member States have a direct management interest in the fisheries to be affected by conservation measures in one Member State's Natura 2000 sites, the Member States concerned may submit to the Commission a joint recommendation containing the necessary conservation measures

The Commission is empowered to adopt such measures by means of delegated acts, making them applicable to fishing vessels of all Member States

Good practice in the procedure for preparing joint recommendations under Article 11 of the CFP Regulation is set out in the relevant guidance document

[Register of Commission Documents - SWD\(2018\)288](#)

Measures under the technical measures regulation

Article 15(2): the Commission is empowered to adopt delegated acts (on the basis of a joint recommendation submitted in accordance with Article 18 of the CFP Regulation) in order to amend, supplement, repeal or derogate from the technical measures set out in the Annexes to this Regulation. Such measures include closed or restricted areas, restrictions on the use of fishing gear or mitigation measures to reduce incidental catches of sensitive species.

Article 19: allows real-time closures in conjunction with moving-on provisions with the aim of ensuring the protection of sensitive species, as an option to be implemented through regionalisation. The Commission must adopt such delegated acts based on a joint recommendation submitted by Member States having a direct management interest, taking into account the best available scientific advice

Article 21: elaborates on the nature conservation measures that can be included in joint recommendations.



Shared responsibility

- The primary responsibility to protect a site falls to the Member State hosting it, however Member States must cooperate and take action if such cooperation is necessary to comply with Birds and Habitats Directives
- In the procedure under Article 18 of the CFP Regulation, Member States **must cooperate with one another** in formulating joint recommendations
- If a certain measure, according to scientific evidence, is considered essential to achieving the site's conservation objectives then Member States must constructively cooperate towards an agreement on that measure



Measures outside the CFP

National measures not related to fisheries management but applicable to all vessels (including fishing vessels) may be put in place by Member States' authorities, to reduce certain impacts on habitats or species

- Anchoring of vessels to avoid negative impacts on reefs or *Posidonia* meadows
- Speed of vessels or the use of lights, including by designating areas to be avoided, to prevent collisions or reduce the impact of underwater noise on cetaceans, and of vessels' lights on seabirds
- Designation of areas to be avoided by maritime traffic



Example of measures outside CFP

Malta: notices to mariners

- Transport Malta has issued notices to mariners aimed at protecting threatened Yelkouan shearwater (*Puffinus yelkouan*) by limiting maritime activities near nine sites within Natura 2000 sites around Malta and Gozo
- Result of a partnership with BirdLife Malta, which implemented the LIFE Arcipelagu Garnija project
- The notices create buffer zones around those sites and restrict lighting and noise from vessels, their anchoring, and vessel navigation



PORTS AND YACHTING DIRECTORATE

NOTICE TO MARINERS N° 18 of 2024

Our Ref: **TM/PYD/ 88/06**

31 July 2024



Transport Malta

Malta Transport Centre,
Triq Pantar, Hal Lija, LJA 2021
Malta

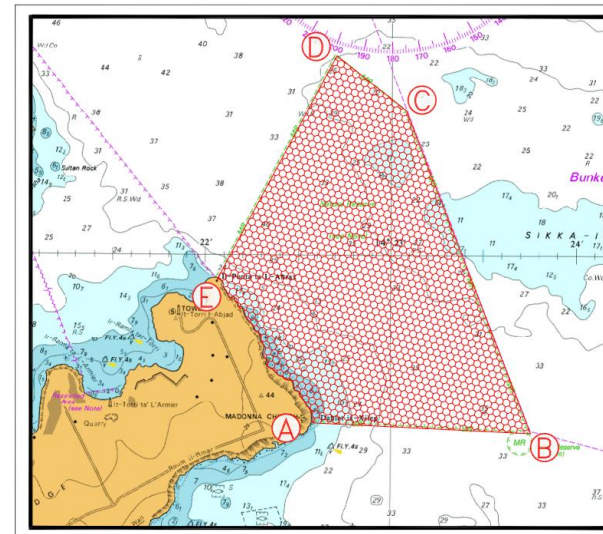
Tel: (356) 2122 2203
Fax: (356) 2125 0365
Email: info.tm@transport.gov.mt

www.transport.gov.mt

Restricted Area between "Ponta tal-Ahrax" and "Dahlet ix-Xilep"

The Ports and Yachting Directorate, Transport Malta, notifies that as part of an EU LIFE project, aimed at protecting the Yelkouan Shearwaters (**GARNIJA**), seabirds that breed on cliffs, a restricted area is established. One such breeding area is located at "Rdum tal-Madonna" on the cliffs between il-Ponta tal-Ahrax and Dahlet ix-Xilep.

The habitat and breeding ground of ten per cent (10%) of the world's population of Yelkouan Shearwaters, is located at "Rdum tal-Madonna". The Area has been designated as a "Special Protection Area" (SPA) and is now of International Importance and interest in the conservation of the species and of other seabirds. Light and noise



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sound - applicable to all vessels
including pleasure cruises
operating as boat parties. No
petards or other fireworks. No
stopping except for fishing
vessels, but cannot use strong
lights (like lampara).
All year round and at all times.

Chart 1



Key messages

- **Integrate** Natura 2000 management with the common fisheries policy framework
- **Act early** — preventive measures should start as soon as sites are designated
- **Cooperate regionally** when fisheries involve multiple Member States
- **Base measures on science**, supported by monitoring and **stakeholder engagement**
- **Use precaution** where data are uncertain
- **Consider complementary actions** outside the CFP



Thank you

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