

#ProtectedMeansProtected

Marine Protected Areas in the EU: ensuring legal compliance and effective enforcement

Marine Protected Areas (MPAs) in the European Union are established under EU laws including the Habitats Directive, to conserve rare, threatened, or endemic animal and plant species, along with their natural habitats. Thriving marine ecosystems within MPAs can better withstand the impacts of climate change, mitigate its effects, and support the regeneration of fish populations, **benefiting** fishers due to this 'spillover' effect.



However, this is currently not the reality in the water. Despite the strong legal duties in the EU, **destructive fishing activities including bottom trawling still occur in MPAs**, putting at risk conservation objectives.



Inadequate enforcement at national and EU level

- » **At national level**, Member States have failed to fulfill their legal obligations under EU conservation laws due to a lack of action and inadequate measures to safeguard MPAs. While fishers are simply following licensing and permitting procedures, national governments have neglected to properly incorporate environmental requirements and to carry out proper impact assessments of fishing activities in protected areas.
- » **At EU level**, the European Commission has not yet properly enforced EU nature conservation laws to hold EU Member States accountable. The Commission is the 'Guardian of the Treaties', responsible for ensuring that Member States properly implement and apply EU laws. Yet despite the poor conservation status of protected seabed habitats, the Commission is yet to take legal action against Member States for continuing to allow bottom trawling in MPAs.

NGO legal action to protect MPAs

To address the lack of protection and consequent degradation of MPAs, coalitions of NGOs have taken legal action against Member States and filed legal complaints with the European Commission, aiming to hold governments accountable and ensure that MPAs are genuinely protected via the effective enforcement of EU conservation laws.

Complaint to the European Commission: holding EU Member States accountable

Due to the persistence of bottom trawling in MPAs, a coalition of NGOs, including Seas At Risk, ClientEarth and Oceana, have filed a legal complaint with the European Commission for failing to enforce EU conservation laws.

The complaint urges the Commission to exercise its enforcement powers and initiate infringement procedures against those Member States failing to comply with the conservation law.

While the Commission has already called on Member States to phase out bottom trawling in MPAs in its Marine Action Plan, it is now time to take decisive steps to address these legal breaches and preserve Europe's natural marine heritage.

The **EU complaint** filed highlights examples from **Spain, the Netherlands, and Denmark**. These countries, chosen as case studies for the complaint, represent only a fraction of the problem, which is widespread across the EU. The focus on these countries is due to high levels of bottom trawling in their MPAs and the expertise available in the NGOs network at national level from Oceana and Danmarks Naturfredningsforening.

This initiative adds to **another EU complaint** calling on the European Commission to initiate infringement procedures against Italy, Germany, and France for the same reasons.



National legal cases, pushing for compliance

Due to several EU Member States allowing destructive bottom trawling in Marine Protected Areas, a coalition of NGOs launched **national legal cases** against **Spain, Germany, Sweden, and the Netherlands**, aiming to spur EU governments to end destructive fishing in EU protected areas.

The Habitats Directive requires Natura 2000 MPAs - the most important network of MPAs in Europe - to be protected from activities likely to significantly affect site integrity. It therefore mandates that activities affecting an MPA, which include fisheries, should be subject to an environmental 'appropriate' assessment in order to evaluate and prevent negative impacts. This is designed to ensure that activities such as bottom trawling do not adversely affect the ecological condition of the protected sites. However, such assessments are neglected by most national governments, and they have also generally failed to adopt suitable conservation measures and other preventive measures at the time the MPA is designated in order to prevent the destruction of protected habitats and species by bottom trawling.

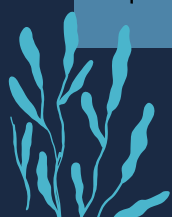
Key EU legal obligations and policies



The EU legal framework establishes clear obligations to maintain the integrity and effectiveness of Natura 2000 MPAs. **EU Habitats Directive (Council Directive 92/43/EEC): (Article 6)** requires Member States to establish appropriate conservation measures for protected areas. It also requires that all activities affecting MPAs are managed to ensure there are no adverse effects on the site's integrity, thereby safeguarding the habitats and species they are designed to protect. Member States need to carry out impact assessments and establish conservation measures in order to ensure that activities such as bottom trawling do not have an adverse effect on site integrity.

The Mediterranean Regulation (Council Regulation (EC) No 1967/2006), specific to the Mediterranean Sea, reinforces the need for robust conservation measures within Natura 2000 areas. Article 4 of the Regulation also expressly regulates bottom trawling in these MPAs designated for the protection of seagrass beds, reefs and other sensitive seabed habitats.

The implementation of these obligations and policies in EU seas is still lagging behind. That is why in 2023, the European Commission adopted **the EU Marine Action Plan**, which aims at improving the implementation of key conservation laws at sea and calls on Member States to phase out bottom trawling in all MPAs by 2030. While several countries, notably Greece and Sweden, have responded to the Marine Action Plan by committing to bring an end to bottom trawling in their MPAs, most other EU countries continue to fall short of meeting the requirements set out in EU law.



Background on national legal cases

GERMANY

Case	BUND sued the German Government for allowing bottom trawling in the German Doggerbank MPA without prior assessment.
Intervention	BUND appealed to court against the German Federal Agency for Agriculture and Food for infringing EU and national nature conservation law.
Claimant(s)	Bund für Umwelt und Naturschutz Deutschland e.V.
Defendant	German Federal Office for Agriculture and Food
Jurisdiction	Germany
Court	Administrative Court Hamburg
Laws invoked:	Habitats Directive
Desired legal impact:	Effective enforcement of EU nature conservation law. Bottom trawling should be considered a project under the Habitats Directive Art. 6.3, which would require an appropriate assessment before being allowed in MPAs.

THE NETHERLANDS

Case	ClientEarth, Doggerland Foundation, Blue Marine Foundation, ARK Rewilding sued the Dutch government for allowing bottom trawling in the Dogger Bank without a prior assessment.
Intervention	Environmental NGOs filed legal action against the Dutch government challenging bottom trawling that has been authorised in the Dogger Bank in violation of EU conservation law.
Claimant(s)	ClientEarth, Doggerland Foundation, Blue Marine Foundation, ARK Rewilding
Defendant	Dutch Ministry of Agriculture, Nature and Food Quality
Jurisdiction	The Netherlands
Court	Administrative court in The Hague
Laws invoked:	Habitats Directive
Desired legal impact:	Effective enforcement of EU nature conservation law. Bottom trawling should be considered a project under the Habitats Directive Art. 6.3, which would require an appropriate assessment before being allowed in MPAs.

SPAIN

Case	EU law forbids damaging human activities in certain MPAs. However, the Spanish government is flouting those laws by systematically allowing bottom trawling in MPAs in its Atlantic and Mediterranean waters without prior assessments.
Intervention	Environmental NGOs filed legal action against the Spanish government after it was found that bottom trawling is taking place in many MPAs in Spain with no impact assessment, in violation of EU and national conservation laws.
Claimant(s)	ClientEarth and Oceana
Defendant	Spanish Government (Ministry of Agriculture, Fisheries and Food – Secretary General of Fisheries)
Jurisdiction	Spain
Court	Audiencia Nacional, Madrid
Laws invoked:	Habitat Directive, Mediterranean Regulation
Desired legal impact:	Effective enforcement of existing EU nature conservation laws, specifically article 4 of the Mediterranean Regulation and article 6 of the Habitat Directive.

SWEDEN

Case	The Swedish Society for Nature Conservation requested the County Administrative Board of Västra Götaland to end bottom trawling in Bratten. Bottom trawling has been permitted without prior adequate assessment in the Bratten area, one of the most biodiverse protected regions in Swedish water.
Intervention	The Swedish Society for Nature Conservation filed a legal action against the County Administrative Board of Västra Götaland on bottom trawling in the Natura 2000 area Bratten in Swedish Skagerrak, requesting that fisheries in the area should be subject to permitting, and that bottom trawling should be banned in the entire area.
Claimant	The Swedish Society for Nature Conservation
Defendant	County Administrative Board of Västra Götaland
Jurisdiction	Sweden
Court	Land and environmental court at the district court of Vänersborg
Laws invoked:	Habitats directive and Swedish environmental law.
Desired legal impact:	Push the creation and/or use of legal tools to ban bottom trawling in Swedish MPAs. (Permitting procedure for all fishing in MPAs)

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Danmarks
Naturfredningsforening



Swedish Society
for Nature Conservation



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