

**Resolution  
of the Bundesrat**

**Proposal for a Directive of the European Parliament and of the Council establishing a framework for maritime spatial planning and integrated coastal management  
COM(2013) 133 final; Council doc. 7510/13**

At its 909<sup>th</sup> meeting on 3 May 2013 the Bundesrat adopted the following comments in accordance with Article 12(b) TEU:

1. The Bundesrat is of the opinion that the proposal presented by the Commission is not in accordance with the subsidiarity principle. The EU has no powers of its own in the area of spatial planning. According to the general distribution of competences in Article 4(1) and Article 5(2) sentence 2 TEU, responsibility for regulation lies with the Member States. The Bundesrat underlines that, in accordance with those responsibilities, the actual planning process must remain reserved for the Member States. This also applies in particular to setting priorities and finding solutions at national and regional level.
2. The EU substantiates its proposal with areas for which shared competences exist under Article 4(2) TEU. Under Article 5(3) TEU, in areas which do not fall within its exclusive competence, the EU may act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level. Since 'Maritime spatial planning' regularly requires coordination between States, the Bundesrat acknowledges that the EU has competence in this area, but that competence is limited to formulating a procedural framework and/or procedural standards.

3. Even though the Commission argues on regulatory grounds in favour of a regulatory framework in the areas 'Maritime spatial planning' and 'Integrated coastal management strategies', it is not understandable why on relevant points the regulatory density of the proposal for a Directive goes far beyond the procedural framework. The Bundesrat regards the specific minimum requirements for 'Maritime spatial plans' and 'Integrated coastal management strategies' contained in the proposal as clearly too detailed and as interfering with material spatial planning law which falls under the competences of the Member States and their subdivisions, thereby infringing the subsidiarity principle.
  
4. Furthermore, the Bundesrat regards taking the ecosystem-oriented approach as a basis for 'Maritime spatial plans' and 'Integrated coastal management strategies' as requiring explanation. The related prior consideration and/or prioritisation in favour of ecology goes far beyond a procedural framework. The Bundesrat points out that, under the principle of proportionality in accordance with Article 5(4) TEU, the content and form of EU action must not exceed what is necessary to achieve the objectives of the Treaties. From this the inadmissibility of detailed content requirements for 'Maritime spatial planning' in the Member States can be inferred. These are not necessary to achieve the objective sought, namely spatial planning which is procedurally based on the same foundations and coordinated across borders.