

FIRST LOOK

POLITICAL TRILOGUE MEETING OF 30 MAY 2023 AGREEMENT
ON
REGULATION
AMENDING COUNCIL REGULATION (EC) No 1224/2009 AS
REGARDS FISHERIES CONTROL

MEDAC - WG1

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Larnaka, 27 June 2023

General overview of COM (2018) 368

THE REGULATION AMENDS THE FOLLOWING REGULATION:

Council Regulation (EC) No 1224/2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy

Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing

Council Regulation (EC) No 1967/2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea

Regulation (EU) 2016/1139 establishing a multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea and the fisheries exploiting those stocks

Council Regulation (EC) No 768/2005 establishing a European Fisheries Control Agency

WHY TO MODIFY FISHERY CONTROL SYSTEM?

**CONTROL STRATEGIES,
METHODOLOGIES AND
CHALLENGES OBSOLETE (MORE
THAN 10 YEARS)**

**FCS DESIGNED PRIOR TO
THE REFORMED COMMON
FISHERIES POLICY (CFP)**

**SYSTEM NOT REFLECT RECENT UNION POLICIES,
(PLASTIC STRATEGY, DIGITAL SINGLE MARKET
STRATEGY, INTERNATIONAL OCEAN GOVERNANCE)**

**NOT FULLY COHERENT
WITH CFP REFORMED**

- **COMMISSION REFIT EVALUATION**
- **SPECIAL REPORT OF THE EUROPEAN COURT OF AUDITORS**
- **RESOLUTION BY THE EUROPEAN PARLIAMENT**

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FISHING LICENCE (ART.6)

A Union ***catching*** vessel may be used for commercial exploitation of marine biological resources **only if it has a valid fishing licence.**

The flag MS shall ensure that the ***fishing licence meets the minimum information requirements concerning the identification, technical characteristics and fitting out of a catching vessel and that the*** information contained in the fishing licence is accurate and consistent with that contained in the Union fishing fleet register (Article **24(3)** Reg. (EU) 1380/2013).

Art.6 Fishing Licence



For an effective monitoring of position and movement of the fishing vessels, wherever those vessels may be

Each Union fishing vessel shall have installed on board a fully functioning device which allows that vessel to be automatically located and identified by a VMS through transmitting automatically the vessel position data at regular intervals.

- The VMS allow the fisheries monitoring centre of the flag MS to poll the fishing vessel at all times.
- The transmission of vessel position data and the polling either pass through **a satellite connection**, or, where possible, **a land-based mobile network or other equivalent technology**.

DEROGATION 1

Union fishing vessels **< 12 metres LOA** may carry on board a device which:

- **does not have to be installed on board and**
- **allows the vessel to be automatically located and identified while at sea through recording and transmitting the vessel position data at regular intervals through satellite connection or any other network**

Application of the derogation:

MS make available an alternative VMS, developed at national or Union level.

This VMS allow the fisheries monitoring centre of the flag MS to poll the position of the fishing vessel through satellite connection or, where possible, any other network .

In case the device is not within reach of a network, the vessel position data shall be recorded during that period of time and shall be transmitted automatically as soon as the vessel is in reach of a such network.

EC Implementing acts

Detailed rules on:

- (a) the format and content of vessel position data;**
- (b) the minimum requirements and technical specifications of vessel monitoring devices;**
- (c) the frequency of transmission of the data**
- (d) the transmission of data to coastal MS**
- (e) the responsibilities of the masters of fishing vessels concerning the operation of vessel monitoring devices.**

MS may exempt, until 31/12/29, **Union fishing vessels of less than 9 m LOA flying its flag** from the requirement to be fitted with a vessel monitoring system if the vessels:

- (a) **operate exclusively:**
 - (i) **in the waters under their sovereignty or jurisdiction up to six NM from the baselines from which the breadth of the territorial sea is measured and use only passive gear; or**
 - (ii) **in the waters on the landward side of the baselines of that Member State;**
- (b) **never spend more than 24 hours at sea from the time of departure from port to the return to port; and**
- (c) **are not subject to restrictions applicable in any fishing restricted area in which they operate.**

Article 6a of Directive 2002/59/EC

Union fishing vessels > 15 m LOA shall be fitted with and maintain in continuous operation an automatic identification system (AIS) which meets the performance standards referred to in that Directive.

The master may switch off the AIS in exceptional circumstances when the master considers that the safety or security of the crew is imminently at risk of being compromised.

Where the AIS is switched off, the master report that action and the reason for doing so to the competent authorities of its flag MS.

When the situation has elapsed, the master shall restart the AIS as soon as the source of danger has disappeared.



MS ensure monitoring and control of fishing activities through remote electronic monitoring (REM) systems as set out in this Article.

PURPOSE: Monitoring and control of landing obligation

Union catching vessels > 18 metres LOA or more which pose a high risk of non-compliance with the landing obligation have installed on board an operating REM system.

Assessment of the risk of non-compliance carried out in accordance with EC implementing acts

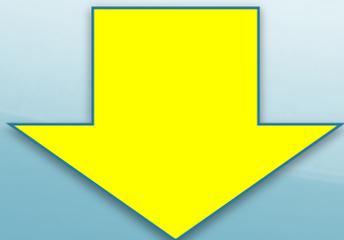
The REM system is able to effectively monitor and control compliance with the landing obligation, **shall include CCTV** and may include other instruments and/or equipment.



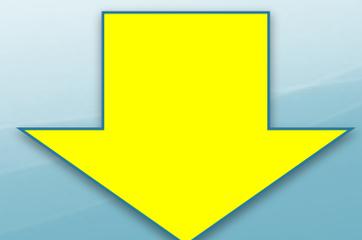
In addition to the CCTV systems MS may require the use of other electronic monitoring systems for the purpose of controlling the landing obligation.

Implementing acts of EC

Detailed rules on the requirements, technical specifications, installation and functioning of the electronic monitoring systems for the control of the LO including continuously recording CCTV systems.



Reg. 1124/2009
NO CCTV





Implementing acts of EC to:

- ✓ **determine the fleet segments to which the obligation to have installed on board the REM system shall apply, based on the assessment of the risk of non-compliance with the landing obligation;**
- ✓ **set out detailed rules on requirements, technical specifications, installation, maintenance and functioning of the REM system and the period for which the REM system must be operated: Recorded video material from REM only concerns the gear and the parts of the vessel where fishery products are brought on board, handled, stored and all areas where discarding can occur, and does not, to the extent possible, allow the identification of natural persons; anonymisation of the personal data as soon as possible**
- ✓ **set out detailed rules on the storage of, the exchange of and access to the data from the REM system.**

Member States may provide that certain fleet segments of Union catching vessels below 18 m LOA flying their flag have on board an operating REM system, based on the risk of non-compliance with the landing obligation as assessed by the Member State concerned or by the Commission.

INCENTIVES: MS may provide incentives for vessels not required to be equipped with an REM system under paragraphs 2 and 4, and which use REM for control of the landing obligation on a voluntary basis.

MS may provide for the use of REM systems for the control of compliance with the rules of the CFP other than the landing obligation

COMPLETION OF FISHING LOGBOOK 1

Each Union catching vessel keeps an electronic fishing logbook for the purpose of recording fishing activities.

Art.
14

Information in the fishing logbook:

- (a) **the** unique fishing trip identification number;
- (b) **the common fleet register (CFR) number;**
- (c) the FAO alpha-3 code of each species and the relevant geographical area of catches;
- (d) the date and, **for vessels of 12 metres' length overall or more**, the time of catches;
- (e) the date and time of departure from, and of arrival to, port
- (f) the type of **fishing** gear, **its** technical specifications and dimensions;
- (g) the estimated quantities of **each species retained on board** in kg live weight or the number of individuals, including, **as a separate entry**, the quantities or individuals below the applicable MCRS. For Union **catching** vessels of 12 metres' length overall or more, this information shall be provided per fishing operation;
- (h) estimated **quantities of each species discarded in kilograms live weight or, where appropriate, the number of individuals.**

COMPLETION OF FISHING LOGBOOK 2

Margin of Tolerance

When compared with the quantities landed or **with** the result of an inspection, the permitted margin of tolerance in estimates recorded in the fishing logbook of the quantities in kilograms of fish retained on board shall be 10 % per **each** species.

For species retained on board the quantity of which does not exceed 100kg live weight equivalent, the permitted margin of tolerance shall be 20% per each species.

Other margins of tolerance (see regulation)

Reg. 1124/2009
< 10m LOA → No Logbook
≥ 10 m LOA → (paper) Logbook ← ≤12 LOA
Electronic Logbook > 12 m LOA
(possible exemption 12-15 m LOA)

Reg. 1124/2009
Margin of
Tolerance:
10%

Masters of Union catching vessels submit by electronic means the information of the logbook to the competent authority of their flag Member State:

- (a) **at least once a day,**
- (b) **after the last fishing operation and before entering *a port or a landing site.***



Masters of Union catching **vessels below 12 m LOA** submit by electronic means, the information of the logbook to the competent authority of their flag Member State after the last fishing operation has been completed and before **the landing starts.**

For vessels below 12 m LOA, MS may use a system for fishing logbooks developed at national or Union level.

If one or more Member States so request by 4 months after the entry into force of this Regulation, the Commission shall develop such a system for vessels below 12 metres' length overall.

If one or more Member States so request, the system developed by the Commission shall be such as to allow the operators concerned to also fulfil their obligations under Articles 9, 19a, 20, 21, 22, 23 and 24.

A requesting Member State shall implement the system as developed by the Commission.

PRIOR NOTIFICATION

Art.
17

Masters of Union fishing **vessels > 12 m LOA** shall submit by electronic means to the competent authorities of their flag Member State **at least four hours before** the estimated time of arrival at a port or landing site of a Member State of the relevant information.

The coastal MS where the landing takes place, **may set a shorter period for the prior notification** for certain categories of Union fishing vessels taking into account the **type of fishery products** and the **distance between the fishing grounds and the port or landing site** , and provided that such shorter period of prior notification does not impair the ability of that Member State to carry out inspections.

Article 23

Completion of the landing declaration

The master of a Union fishing vessel, or a representative of the master, shall complete an electronic landing declaration.

Landing declaration contains at least the following information:

- (a) the unique fishing trip identification number;
- (b) the CFR number or, where that number is not available, another vessel identification number, and the name of the fishing vessel;
- (c) the FAO alpha-3 code of each species landed and the relevant geographical area in which the catches were taken;
- (d) the quantities of each species landed in kg of product weighed in accordance with Article 60 and in live weight, broken down by type of product presentation and state of processing, or, where appropriate, the number of individuals, including, as a separate entry, the quantities or individuals below the applicable minimum conservation reference size;**
- (e) the port of landing or landing site;
- (f) date and time of the completion of the landing, or in case the landing is longer than 24 hours, the date and time of the start and of the completion of the landing;
- (fa) date and time of the completion of the weighing, or in case the weighing is longer than 24 hours, the date and time of the start and of the completion of the weighing;
- (g) the name or an identification number of the operator referred to in Article 60(1c);
- (h) the conversion factors used.

Transmission of landing declaration (master or a representative) by electronic means within 24 hours after completion of the landing.



For fisheries products weighed in accordance with points (c) and (d) of Article 60 (1a), the master or a representative of the master shall submit by electronic means the information referred to in Article 23 to the competent authority of their flag Member State within 24 hours after the **completion of the weighing.**

When a catching vessel exceeds the authorised engine power set out in the fishing licence, a regularisation may be carried out in accordance with a maximum period and the criteria established by the flag Member State concerned.

All costs arising from the certification and verification of engine power shall be borne by the flag Member States.

In accordance with Article 39 of Regulation (EU) No 1380/2013, Member States may require the operators of the catching vessels flying their flag involved in the relevant fishery to contribute to those costs."

Article 39a Continuous monitoring of engine power (NEW)

MS, on a risk assessment, determine which vessels equipped with inboard propulsive engines with certified engine power **exceeding 221 kilowatts** and **using towed gear** (*‘towed gear’ means any trawls, Danish seines, dredges and similar gear which are actively moved in the water by one or more fishing vessels or by any other mechanised system*), **pose a high risk of non-compliance with the rules of the common fisheries policy concerning engine power.**

They shall ensure that those vessels are equipped with permanently **installed systems** that measure and record engine power continuously. The systems ensure the continuous measurement of propulsive engine power in kilowatts and **storage of that data on board.**

Masters and holders of fishing licences ensure that the **systems** function at all times and that the **data** from the continuous measurement of propulsive engine power is recorded and stored on board and is accessible **on board the vessels** at all times **to officials**

*MS may provide that Union catching vessels equipped with inboard propulsive engines with certified engine **power of no more than 221 kW** and using towed gears shall be equipped with permanently installed systems that measure and record engine power continuously, based on the risk of non-compliance*

In case of catching vessels not equipped with a continuous monitoring system, MS undertake, following a risk analysis, data verification of the consistency of engine power using all the information available to the characteristics of the vessel concerned.

In particular MS they shall verify the information contained in:

- vessel position data
 - the fishing logbook data
 - the Engine International Air Pollution Prevention (EIAPP) Certificate;
 - the sea trial certificate;
 - the Union Fleet Register; and,
 - any other documents providing relevant information on vessel power or any related technical characteristics.
- In cases where, following the analysis of these information, there are indications that the engine power of a catching vessel is greater than the power indicated in the fishing licence or in the Union or national fleet register, MS shall proceed with a physical verification of the engine power or shall ensure that the catching vessel concerned is equipped with a system that measure and record engine power continuously.

Entry in force: **four** years after the date of entry into force of the regulation

MS ensure that recreational fisheries on their territory and in Union waters are conducted in a manner compatible with the objectives and rules of the common fisheries policy.

- ***Coastal MS have in place an electronic system allowing for the recording and reporting of catches from recreational fisheries. Coastal Member States may use an electronic system developed at national or Union level.***

In conformity with their national law and with the provisions of this Regulation, Member States shall lay down rules on measures and sanctions against the natural person having committed or a legal person held liable for a breach of the rules of the common fisheries policy, and shall systematically:

(a) initiate proceedings

(b) take appropriate measures when an infringement is detected; and

(c) apply sanctions against the natural or legal persons having committed or held liable for a breach of the rules of the common fisheries policy.

Article 89a Sanctions

MS ensure that a natural/legal person having committed infringements of *the* rules of common fisheries policy **is subject to effective, proportionate and dissuasive administrative sanctions**. *Member States may also, or alternatively, use effective, proportionate and dissuasive criminal sanctions.*

MS ensure that the overall level of sanctions and accompanying sanctions *applied* in accordance with this Regulation and the relevant provisions of national law is *proportionate to the seriousness of infringements and* adequate in severity to *effectively* discourage further infringements and deprive those responsible of the economic benefit derived or expected from their infringement without prejudice to the legitimate right to exercise their profession.

When determining these sanctions the MS take into account, in particular:

- **the gravity, nature and extent of the infringement**, including the *prejudice or the level* of the damage to the fishing resources, *and the marine environment concerned*,
- **duration or repetition**,
- **the accumulation of simultaneous infringements**.

Member States may also take into account the economic situation of the offender to ensure the dissuasiveness of these sanctions.

Article 89a

Sanctions: a) Serious infringements

Serious *infringement*:

- ❖ fishing without a valid licence, authorisation or permit issued by the flag State or the relevant coastal State; or
- ❖ falsifying or concealing markings, identity or registration of a fishing vessel;
- ❖ concealing, tampering with, or disposing of, evidence relating to an investigation;
- ❖ obstructing the work of officials or observers, in the exercise of their duties;
- ❖ transshipping without the required authorisation or where such transshipment is prohibited;
- ❖ conducting transfer operations **or caging, in breach of the rules of the common fisheries policy**;
- ❖ transshipping from or to, conducting transfer operations with, participating in joint fishing operations with, **or** supporting or supplying vessel listed in the IUU vessel list of the Union or of a regional fisheries management organization, as referred to in Articles 29 and 30 of Council Regulation (EC) No 1005/2008;
- ❖ **participating** in the operation, management, ownership, **including as beneficial owner as set out in Article 3(6) of Directive (EU) 2015/849, of, or supplying services, including logistic, insurance and other financial services, to operators connected to, a vessel** listed in the IUU vessel list of the Union or of a regional fisheries management organisation as referred to in Articles 29 and 30 of Regulation (EC) No 1005/2008.
- ❖ **carrying out fishing activities in contravention of the rules applicable in a fishing restricted area;**

Serious *infringement*:

- ❖ *conducting fishing activities involving species subject to catch limits for which the operator does not have a quota or does not have access to the quota of the flag Member State, species for which the quota is exhausted, or species subject to a fishing moratorium, temporary prohibition or closed season, except accidental catches, unless the activity is a serious infringement under point (ja);*
- ❖ *operating, managing or owning a fishing vessel having no nationality and therefore a stateless vessel* in accordance with international law;
- ❖ *using prohibited fishing gear or methods, as referred to in Article 7 of Council Regulation (EU) 2019/1241 or any other equivalent rules of the common fisheries policy;*
- ❖ *falsifying documents, information or data, written on paper or stored in electronic form, referred to in the rules of the common fisheries policy;*
- ❖ *manipulating an engine or continuous engine power monitoring device with the aim of increasing the power of the vessel beyond the maximum continuous engine power according to the engine certificate.*
- ❖ *conducting fishing activities with the use of forced labour, as defined in Article 2 of the Convention on Forced Labour, 1930 (No. 29) of the International Labour Organization.*

Serious infringement where the competent authority of the Member State concerned determines that at least one of the criteria defined in Annex IV is met: (see Annex IV)

- ❖ ***using falsified or invalid documents, information or data, written on paper or stored in electronic form,***
- ❖ ***not fulfilling obligations to accurately record, store and report data relating to fishing activities (VMS data, prior notifications, catch declarations, transshipment declarations, fishing logbooks, landing declarations, weighing records, takeover declarations, transport documents or sales notes);***
- ❖ ***not fulfilling obligations to accurately record estimates of quantities within the permitted margin of tolerance***
- ❖ ***not fulfilling obligations related to the characteristics or use of fishing gear, acoustic deterrent devices, selectivity or fish aggregating devices, in particular marking and identification, areas, depth, periods or number of gears, mesh size, or of the equipment for grading, water separation, or processing or not complying with measures to reduce incidental catches of sensitive species as required under the rules of the common fisheries policy, unless the activity is a serious infringement under paragraph 2;***
- ❖ ***failing to bring and retain on board the fishing vessel, including through slipping, or failing to land or, where applicable, to tranship or transfer, species subject to the landing obligation, including catches below the minimum conservation reference size, in breach of the rules of the common fisheries policy applicable to fisheries or fishing zones.***
- ❖ ***carrying out fishing activities in the area of a regional fisheries management organisation in a manner inconsistent with, or in contravention of, applicable conservation and management measures of that organisation unless the activity is a serious infringement under paragraph 2 or under other points of this paragraph;***

Sanctions: b) Serious infringements by Member State

- ❖ making available on the market fishery **or aquaculture** products in breach of the rules of the common fisheries policy in the case where **those activities are** not considered as serious infringement under paragraph 2 **or under other points** of this **paragraph**;
- ❖ conducting recreational fishing activities in breach of **the** rules of the common fisheries policy or **the sale of fishery products** from recreational fisheries;
- ❖ committing multiple infringements of the rules of the common fisheries policy.
- ❖ **conducting any of the activities referred to in point (g) of paragraph 2 in relation to a vessel engaged in IUU fishing as defined in Regulation (EC) No 1005/2008 and not listed in the IUU vessel list of the Union or of a regional fisheries management organisation;**
- ❖ **using an engine power beyond the maximum continuous engine power certified and recorded in the Member State fleet register;**
- ❖ **landing in ports of third countries without prior notification as referred to in Article 19a of this Regulation**
- ❖ **Conducting business directly connected to IUU fishing, including trade in, import, export, processing and marketing of, fishery products stemming from IUU fishing.**
- ❖ **illegally disposing of a fishing gear or a gear at sea from a fishing vessel.**

Commission is empowered to adopt delegated acts to amend the criteria set out in Annex IV of this Regulation where there are clear indications that this is necessary to ensure effective and proportionate enforcement of the rules of the common fishery policy by and across Member States. It shall take into account, in particular, advice of the expert group on compliance referred to in Article 37 of Regulation (EU) No 1380/2013 or the findings of the report drawn by the Commission under Article 118(2) of this Regulation. Any such amendments shall not add any new criteria and only repeal criteria in exceptional cases.

Article 91a

Sanctions for serious infringements

Member States ensure that a serious infringement that has led to obtaining fishery or aquaculture products shall be punishable by administrative financial penalties.

Minimum: at least the value of the fishery *or aquaculture* products obtained *as a result of* committing the serious infringement, and

Maximum: at least five times the value of the fishery *or aquaculture* products obtained *as a result of* committing the serious infringement.

Repeated serious infringement within a three-year period that has led to obtaining fishery or aquaculture products, MS shall ensure that the serious infringement shall be punishable by administrative financial penalties,

Minimum: at least *twice* the value of the fishery *or aquaculture* products obtained *as a result of* committing the serious infringement, and

Maximum: at least eight times the value of the fishery *or aquaculture* products obtained *as a result of* committing the serious infringement.

Article 91a

Sanctions for serious infringements

When calculating the value of the fishery or aquaculture products obtained as a result of committing the serious infringement, MS consider national prices at first sale, prices identified on principal international markets relevant for the species and fishing area concerned or the prices of the European Market Observatory for Fisheries and Aquaculture Products (EUMOFA) platform, at the time when the infringement was committed.

Where the serious infringement did not lead to obtaining fishery or aquaculture products, the administrative financial penalties shall be determined by the Member States at a level ensuring that these are effective, proportionate and dissuasive.

Member States may also, or alternatively, use effective, proportionate and dissuasive criminal sanctions while ensuring that those sanctions have an equivalent effect to the administrative financial penalties referred to in this Article.

Article 91b Accompanying sanctions

- (a) the immobilisation of the fishing vessel(s) **or vehicle(s) involved in the infringement**;
- (b) the confiscation of the vessel(s), **vehicle(s)**, prohibited fishing gear, catches or fishery products;
- (c) the suspension or withdrawal of the fishing license or fishing authorisation;
- (d) the reduction or withdrawal of fishing rights;
- (e) The exclusion from the right to obtain new fishing rights;
- (f) The ban on access to public assistance or subsidies;
- (g) the suspension or withdrawal of the status of approved economic operator granted pursuant to Article 16(3) of Regulation (EC) No 1005/2008;
- (h) the **removal of the fishing vessel from the national register**;
- (i) The **suspension or cessation of all or part of the economic activities of the operator related to the common fisheries policy**;
- (j) the **suspension or withdrawal of the authorisation to engage in trading activities concerning fishery and aquaculture products**.

Thank you for your attention!



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