



FOCUS ON SOME ASPECTS OF THE REVIEW OF REGULATION NO. 1224/2009 ON CONTROLS IN FISHERIES

(FROM THE POLITICAL AGREEMENT OF 30 MAY 2023)

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11 October 2023

In accordance with their national law and the provisions laid down in the Regulation, Member States shall lay down rules on measures and sanctions against persons who have committed an infringement of the rules of the Common Fisheries Policy and systematically:

(a) initiate the procedure

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

(c) apply sanctions to natural or legal persons who have committed or are held responsible for an infringement of the rules of the Common Fisheries Policy.

Infringements and sanctions (Art.89bis)

Member States shall ensure that:



- a natural/legal person who has committed infringements of the rules of the Common Fisheries Policy is subject to effective, proportionate and dissuasive administrative (but also criminal) sanctions.
- the overall level of sanctions and related sanctions is proportionate to the seriousness of the infringements, sufficiently severe to effectively deter further infringements and deprives those responsible of the economic benefit deriving or expected from their breach.



In any case, the legitimate right to exercise their profession is reserved.



In determining those penalties, Member States shall take particular account of:

- the gravity, nature and extent of the infringement, including the injury or extent of the damage to fishery 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 in order to ensure that such penalties are dissuasive.

Member States shall ensure that a serious infringement leading to the production of fishery or aquaculture products is punishable by administrative fines.



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

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

Serious infringement repeated over a period of three years leading to the production of fishery or aquaculture products:



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

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

How to calculate the value of fishery/aquaculture products?

MS shall take into account national prices on first sale, prices identified on the main international markets relevant to the species and fishing area concerned or the platform prices of the European Observatory for Fishery and Aquaculture Products (EUMOFA) at the time the infringement was committed.

Where the serious infringement has not led to the production of fishery or aquaculture products, the administrative pecuniary penalties shall be determined by MS at a level which ensures their effectiveness, proportionality and deterrence.

MS may also or alternatively use effective, proportionate and dissuasive criminal penalties, while ensuring that such sanctions have an effect equivalent to the administrative pecuniary sanctions provided for in this Article.

For the purposes of the revised Regulation, a 'fine' subdivision is introduced as regards the definition of 'serious infringement':

'serious infringement' means:

An infringement listed in Article 90(2) ←

An infringement 'considered serious' within the meaning of Article 90(3). ←

Considered serious infringement (art.90.3)

Activities constituting a serious infringement where the competent authority of the Member State concerned determines that at least one of the criteria set out in Annex IV is met

The criteria according to which MS may or may not define infringements as serious are set out in Annex IV to the proposal for a Regulation.

The Commission shall be empowered to adopt delegated acts to amend the criteria set out in Annex IV where there are clear indications that this is necessary to ensure effective and proportionate application of the rules of the Common Fisheries Policy by and between Member States.

Considered serious infringement (art.90.3)/ Some examples

The following activities constitute a serious infringement where the competent authority of the Member State concerned determines that at least one of the criteria set out in Annex IV is met:

Article 90(3)(a) **1**

(a) not comply with the obligation to record, store and report fishing activity data, including VMS data, prior notifications, catch declarations, transshipment declarations, logbook, landing logbook, weighing, taking charge and transport documents or sales notes

CRITERIA

where the fishery products covered by the infringement represent at least 10 % of the total weight of the products concerned;

interference with the installation or operation of the vessel monitoring system, automatic identification system, logbook, REM system, weighing system, continuous engine power monitoring device or any other applicable control system of the Member State, including shutdown, unless authorised by the competent authorities;

failure to record and report catches of species subject to the landing obligation by species, haul, zone, day or fishing trip..., taking into account, in particular, the nature and extent of the activity, including injury or the level of damage to fishery resources and the marine environment concerned;

Considered serious infringement (art.90.3)/ **Some examples**

Article 90(3)(a) **2**

(a) not comply with the obligation to record, store and report fishing activity data, including VMS data, prior notifications, catch declarations, transshipment declarations, logbook, landing logbook, weighing, taking charge and transport documents or sales notes

no data and information recorded or transmitted to the fisheries monitoring centre of the flag Member State;

CRITERIA

failure to notify the authorities of the Member States of the malfunctioning of the vessel monitoring system, the automatic identification system, the logbook, the REM or any other control device or system provided for in the CFP rules;

failure to transmit data on fishing operations and fishing operations, including sales notes, when the landing, transshipment or fishing operation took place outside Union waters;

Repetition of the infringement within one year (the same infringement committed within 12 months prior to the date on which the present infringement was committed.)

Considered serious infringement (art.90.3)/ **Some examples**

Article 90(3)(d)

d) failure to comply with obligations related to the characteristics or use of fishing gear, acoustic deterrent devices, selectivity or fishing aggregating devices, in particular marking and identification, areas, depth, periods or number of gears, mesh sizes or equipment for classification, water separation or processing, or not complying with measures to reduce catches accidental species of susceptible species as required by the rules of the CFP; **unless the activity is a serious infringement under paragraph 2;**

passive fishing gear and fish aggregation devices lack any marking or have incorrect markings, labels or related characteristics affecting more than half of the fishing gear or fish aggregation devices;

CRITERIA

more than 10 % of the required number of acoustic deterrent devices are not used or more than 10 % of the required acoustic deterrent devices used are not properly functioning;

the size of the whole or part of the active fishing gear exceeds the allowed size of such gear by 10 %.

the number of passive fishing gear and fish aggregation devices used exceeds the allowed number of such gear or devices by 10 %.

Reiteration of the infringements in 12 month

Considered serious infringement (art.90.3)/ Some examples

Article 90(3)(d)

d) failure to comply with obligations related to the **characteristics or use of fishing gear**, acoustic deterrent devices, selectivity or aggregation devices of fish, in particular marking and identification, areas, depth, periods or number of gears, mesh sizes or equipment for classification, water separation or processing, or failure to comply with measures to reduce catches accidental species of susceptible species as required by the rules of the Common Fisheries Policy; unless the activity constitutes a serious infringement within the meaning of paragraph 2;

failing to deploy other methods and devices in accordance with the rules of the CFP in order to optimise selectivity, such as escape panels, sorting grids or exit holes

CRITERIA

using fishing gear on a location where the distance to shore deviates from the allowed distance by more than 10 %, or where the sea-depth deviates from the allowed depth

using devices that obstruct or otherwise effectively diminish the selectivity characteristics of gear or the methods and devices referred to in point da

the selectivity characteristics of gear as required by PCP are altered by reducing the size of those elements of a gear which determine selectivity, such as mesh size, yarn diameter or hook size, by 3 mm or 5%, whichever is greater

Reiteration of the infringements in 12 month

Considered serious infringement (art.90.3)/ Some examples

Article 90(3) (h)

conducting recreational fishing activities in breach of the rules of the common fisheries policy or sale of fishery products from recreational fisheries

selling fishery products from recreational fisheries which represent a value equal to or greater than 50 € or quantities that are equal to or more than 10 kg

2 individuals or more of specimen retained are unauthorized or 1 individual or more are prohibited species;

CRITERIA

the competent authority of a Member State 25% or more of specimen retained are noncompliant with the minimum conservation reference size committed.

retaining quantities of species exceeding the bag or catch limits or exceeding by 50% applicable quotas

Reiteration of the infringements in 12 month

Considered serious infringement (art.90.3)/ **Some examples**

Article 90(3) (k)

using an engine power beyond the maximum continuous engine power certified and recorded in the Member State fleet register

when the difference between the power verified and the power certified and recorded is higher than 20%;

CRITERIA

Reiteration of the infringements in 12 month

BUT....

Article 90(2) (q)

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.

Considered serious infringement (art.90.3)/ **Some examples**

Article 90(3) (k)

using an engine power beyond the maximum continuous engine power certified and recorded in the Member State fleet register

when the difference between the power verified and the power certified and recorded is higher than 20%;

CRITERIA

Reiteration of the infringements in 12 month

BUT....

Article 90(2) (q)

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.



Special report of the European Court of Auditors on the Revision of Control Regulation

Main conclusions:

The control system itself needed to be updated and there are weaknesses with:

- - the verification of the accuracy of MS fleets' capacity,
- - the control of small vessels,
- - the reliability of reported catch data
- - **the equal treatment of fishing operators in the application of sanctions.**

• ECA made a number of recommendations both to the European Commission and to Member States to improve fisheries controls.

Does the text represent what is requested?





European Parliament

EUROPEAN PARLIAMENT RESOLUTION

25 OCTOBER 2016

OBJECT OF RESOLUTION: HOW TO MAKE FISHERIES CONTROLS IN EUROPE UNIFORM (75 POINTS)

MAIN CONCLUSIONS (NOT EXHAUSTIVE):

maintain a level playing field among EU fleets

simplification and improvement of Union legislation

standardisation of sanctions while keeping them at a level that is proportional and non-discriminatory and that acts as a deterrent

encourages the EC and MS to consider the development of a harmonised minimum-level penalty, applicable to serious infringements and/or repeated illegal behaviour

Does the text represent what is requested?

From MEDAC 11/10/2018



Gian Ludovico Ceccaroni 10/2023

MARGIN OF TOLERANCE

GENERAL RULE

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.**

- **small pelagic fisheries** (i.e. fisheries for mackerel, herring, horse mackerel, blue whiting, boarfish, anchovy, argentine, sardine, sprat);
- **fisheries for industrial purposes** (inter alia, fisheries for capelin, sandeel and Norwegian pout);
- For species that are landed unsorted and in the case of tropical tuna purse seine fisheries for species which are landed unsorted, the following margins of tolerance shall apply:

CASE A

Landings in listed ports and complying with additional conditions concerning the landing and the weighing of catches, to ensure accurate catch reporting:

i. for species representing 2 % or more in weight of all species landed, 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% of the total quantity of all species recorded in the fishing logbook, per each species; and

ii. for species that represent less than 2 % in weight of all species landed, the permitted margin of tolerance in estimates recorded in the fishing logbook of the quantities in kilograms of fish retained on board shall be 200 kg or 0,5 % of the total quantity of all species recorded in the fishing logbook, per each species, whichever is greater.

iii. In addition to the provisions set out in points (i) and (ii), in any event, for the total quantity of all species, the permitted margin of tolerance in estimates recorded in the fishing logbook of the total quantity in kilograms of fish retained on board shall be 10 % of the total quantity of all species recorded in the fishing logbook.

CASE B

Landings other than those referred to in subparagraph a):

- i. for species representing 2% or more in weight of all species landed, 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;
- ii. for species that represent less than 2 % in weight of all species landed, the permitted margin of tolerance in estimates recorded in the fishing logbook of the quantities in kilograms of fish retained on board shall be 200kg or 20 % per each species recorded in the fishing logbook, whichever is greater.

**The agreement contains much more...
Final approval is now awaited with passage in the plenary of
the European Parliament (from 17 October 2023) and in the
Council...**

Then the publication in the Official Journal of the EU

**And from there the counter for the differentiated entry into
force for the different measures will start, as we have seen in
the presentation in Larnaca in June...**

The complete application will tell us if the objectives have been achieved or not....



FOCUS ON SOME ASPECTS OF THE REVIEW OF
REGULATION NO. 1831/2003 ON CONTROLS
OF FEED ADDITIVES
(BASED ON THE TECHNICAL AGREEMENT OF 30 MAY 2023)

Thank You for your attention

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11 October 2023