

COMMISSION IMPLEMENTING REGULATION (EU) 2021/141**of 5 February 2021****extending a derogation from Council Regulation (EC) No 1967/2006 as regards the prohibition to fish above protected habitats, the minimum distance from the coast and the minimum sea depth for the 'ganguì' trawlers fishing in certain territorial waters of France (Provence-Alpes-Côte d'Azur)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1967/2006 of 21 December 2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea, amending Regulation (EEC) No 2847/93 and repealing Regulation (EC) No 1626/94 ⁽¹⁾, and in particular Article 4(5) and Article 13(5) and (10) thereof,

Whereas:

- (1) Article 4(1) of Regulation (EC) No 1967/2006 prohibits fishing with trawl nets, dredges, purse seines, boat seines, shore seines or similar nets above seagrass beds of, in particular, *Posidonia oceanica* or other marine phanerogams.
- (2) At the request of a Member State, the Commission may allow a derogation from Article 4(1) of Regulation (EC) No 1967/2006, provided that a number of conditions set out in Article 4(5) are fulfilled.
- (3) Article 13(1) of Regulation (EC) No 1967/2006 prohibits the use of towed gears within 3 nautical miles of the coast or within the 50 m isobath where that depth is reached at a shorter distance from the coast.
- (4) At the request of a Member State, the Commission may grant a derogation from Article 13(1) of Regulation (EC) No 1967/2006, provided that a number of conditions set out in Article 13(5) and (9) are fulfilled.
- (5) A derogation from Article 4(1) of Regulation (EC) No 1967/2006 and Article 13(1) and (2) thereof for the use of 'ganguì' trawlers in certain territorial waters of France (Provence-Alpes-Côte d'Azur) was granted for the first time by Commission Implementing Regulation (EU) No 586/2014 ⁽²⁾. It applied until 6 June 2017.
- (6) An extension of that derogation was granted from 11 May 2018 until 11 May 2020 by Commission Implementing Regulation (EU) 2018/693 ⁽³⁾.
- (7) On 25 October 2019, the Commission received a request from France to extend this derogation for three years. On 3 December 2020, France reviewed its request for extension to two years. France provided information and scientific data to justify the renewal of the derogation, including an implementation report of the management plan adopted by France on 13 May 2014 ⁽⁴⁾ in accordance with Article 19 of Regulation (EC) No 1967/2006, an updated mapping of the seagrass beds of *Posidonia oceanica* in the area covered by Implementing Regulation (EU) 2018/693 and an implementation report on the reinforced control and monitoring measures.

⁽¹⁾ OJ L 36, 8.2.2007, p. 6.

⁽²⁾ Commission Implementing Regulation (EU) No 586/2014 of 2 June 2014 derogating from Council Regulation (EC) No 1967/2006 as regards the prohibition to fish above protected habitats and the minimum distance from the coast and depth for the 'ganguì' trawlers fishing in certain territorial waters of France (Provence-Alpes-Côte d'Azur) (OJ L 164, 3.6.2014, p. 10).

⁽³⁾ Commission Implementing Regulation (EU) 2018/693 of 7 May 2018 establishing the derogation from Council Regulation (EC) No 1967/2006 as regards the prohibition to fish above protected habitats, the minimum distance from the coast and the minimum sea depth for the 'ganguì' trawlers fishing in certain territorial waters of France (Provence-Alpes-Côte d'Azur) (OJ L 117, 8.5.2018, p. 13).

⁽⁴⁾ Arrêté du 13 mai 2014 portant adoption de plans de gestion pour les activités de pêche professionnelle à la senne tournante coulissante, à la senne de plage et au gangui en mer Méditerranée par les navires battant pavillon français (JORF n° 122, 27.5.2014, p. 8669).

- (8) During its 62nd plenary session held in November 2019 ⁽⁵⁾, the Scientific, Technical and Economic Committee for Fisheries (STECF) assessed the request for extending the derogation, the data and the implementation reports. The STECF concluded that certain data submitted by the French authorities needed to be improved, namely by clarifying the impact of the gear on the *Posidonia* beds and providing up to date catch data.
- (9) On 10 February 2020, France provided to the Commission updated catch composition data and a new analysis based on the data transmitted by the VMS transponders ('VMS data') installed in the authorised 'gangui' trawlers. The VMS data allow defining the actual *Posidonia* surface area affected by this gear. The analysis shows that the 'gangui' trawlers affect 19,9 % of the area covered by beds of *Posidonia oceanica* within the area covered by the French management plan and 7,1 % of the *Posidonia oceanica* beds in the territorial waters of France.
- (10) France furthermore committed to launching a socioeconomic study intended to enhance the knowledge on this fishery, namely by collecting updated price data as well as updated catch and catch composition data.
- (11) Finally, a French decree ⁽⁶⁾ published in February 2020 lowered the maximum allowable effort from 200 to 180 days per year for the gear 'grand gangui'.
- (12) During its 64th plenary session held in July 2020 ⁽⁷⁾, the STECF assessed the VMS data provided by France and concluded that the areas of *Posidonia* beds affected by the gear were below the ceilings established under points (ii) and (iii) of the first subparagraph of Article 4(5) of Regulation (EC) No 1967/2006.
- (13) The STECF also assessed the catch composition data. It concluded that the fishery did not target cephalopods, since those species represent on average only 6 % of the total volume caught, and that the catches of species listed under Part A of Annex IX to Regulation (EU) 2019/1241 of the European Parliament and of the Council ⁽⁸⁾ were minimal.
- (14) The STECF acknowledged the effort made by the French administration to manage the gangui fishery and concluded that the French request for extending the derogation for a further 2 years complied with the relevant provisions of Regulation (EC) No 1967/2006.
- (15) The derogation requested concerns fishing activities by vessels of less than or equal to 12 metres overall length and engine power of less than or equal to 85 kW with bottom towed nets traditionally undertaken on *Posidonia oceanica* beds.
- (16) The fishery concerned affects less than 33 % of the area covered by seagrass beds of *Posidonia oceanica* within the area covered by the French management plan and less than 10 % of *Posidonia oceanica* beds in the territorial waters of France, in line with the ceilings established under points (ii) and (iii) of the first subparagraph of Article 4(5) of Regulation (EC) No 1967/2006.
- (17) There are specific geographical constraints given the limited size of the continental shelf.
- (18) The fishery has no significant impact on the marine environment.

⁽⁵⁾ Scientific, Technical and Economic Committee for Fisheries (STECF) – 62nd Plenary Meeting Report (PLEN-19-03). Publications Office of the European Union, Luxembourg, 2019, ISBN 978-92-76-14169-3, doi:10.2760/1597, JRC118961, <https://stecf.jrc.ec.europa.eu/documents/43805/2620849/STECF+PLEN+19-03.pdf/3b331f34-5dee-48d7-b9dc-97d00b5f1f16>

⁽⁶⁾ Arrêté du 3 février 2020 modifiant l'arrêté du 13 mai 2014 portant adoption de plans de gestion pour les activités de pêche professionnelle à la senne tournante coulissante, à la drague, à la senne de plage et au gangui en mer Méditerranée par les navires battant pavillon français (JORF n° 33, 8.2.2020, texte n° 32).

⁽⁷⁾ Scientific, Technical and Economic Committee for Fisheries (STECF) – 64th Plenary Report (PLEN-20-02). Publications Office of the European Union, Luxembourg, 2020, <https://stecf.jrc.ec.europa.eu/documents/43805/2684997/STECF+PLEN+20-02.pdf/f9c9718d-bf76-449f-bdef-3c94d4c4132d>

⁽⁸⁾ Regulation (EU) 2019/1241 of the European Parliament and of the Council of 20 June 2019 on the conservation of fisheries resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1224/2009 and Regulations (EU) No 1380/2013, (EU) 2016/1139, (EU) 2018/973, (EU) 2019/472 and (EU) 2019/1022 of the European Parliament and of the Council, and repealing Council Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) No 2187/2005 (OJ L 198, 25.7.2019, p. 105).

- (19) The derogation requested by France concern a limited number of 17 vessels, of which only 10 were active in 2019. This represents a 53 % reduction of fishing effort in terms of number of vessels authorised as compared to 2014, when the French management plan was adopted.
- (20) The fishery conducted with 'ganguì' trawlers target a variety of species that correspond to an ecological niche; the catch composition of this fishery, in particular as regards the variety of species caught, is not reflected in any other fishing gear. Therefore, the fishery cannot be undertaken with other gears.
- (21) The request covers vessels with a track record in the fishery of more than five years, which operate under the French management plan.
- (22) Those vessels are included on a list communicated to the Commission in accordance with Article 13(9) to Regulation (EC) No 1967/2006.
- (23) The French management plan guarantees no future increase in the fishing effort, as fishing authorisations may be issued only to specified 17 vessels involving a total of 838 kW that are already authorised by France. More specifically, according to the French management plan, any 'ganguì' fishing authorisation is to be nullified when the authorised vessel concerned is replaced or the vessel master sells its vessel or retires. The Commission therefore notes that this provision will mechanically lead this fishery to disappear gradually over time.
- (24) The requested derogation complies with Article 8(1)(h) of Regulation (EC) No 1967/2006, as replaced by Article 8(1) and section I of Part B of Annex IX to Regulation (EU) 2019/1241, since it relates to trawlers operating with mesh sizes not smaller than 40 mm.
- (25) The fishing activities concerned fulfil the requirements of Article 9(3) of Regulation (EC) No 1967/2006, as replaced by Article 8(1) and section I of Part B of Annex IX to Regulation (EU) 2019/1241, as no square mesh below 40 mm is used in the 'ganguì' net rigging.
- (26) The fishing activities concerned do not interfere with the activities of vessels using gears other than trawls, seines or similar towed nets.
- (27) The activity of 'ganguì' trawlers is regulated in the French management plan to ensure that catches of species mentioned in Part A of Annex IX to Regulation (EU) 2019/1241 are minimal.
- (28) 'Ganguì' trawlers do not target cephalopods.
- (29) The French management plan includes measures for the monitoring of fishing activities, as provided for in the fifth subparagraph of Article 4(5) of Regulation (EC) No 1967/2006 and in the third subparagraph of Article 13(9) thereof. It also includes measures for the recording of fishing activities, thus fulfilling the conditions set out in Article 14 of Council Regulation (EC) No 1224/2009 ⁽⁹⁾.
- (30) The derogation requested therefore complies with the conditions laid down in Article 4(5) and in Article 13(5) and (9) of Regulation (EC) No 1967/2006 and should be granted.
- (31) France should report to the Commission in due time and in accordance with the monitoring plan provided for in the French management plan.
- (32) The duration of the derogation should be limited in order to allow prompt corrective management measures in case the report to the Commission shows a poor conservation status of the exploited stock, while providing scope to enhance the scientific basis for an improved management plan.

⁽⁹⁾ Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p. 1).

- (33) Since the derogation granted by Implementing Regulation (EU) 2018/693 expired on 11 May 2020, in order to ensure legal continuity, this Regulation should apply with effect from 12 May 2020. For reasons of legal certainty, this Regulation should enter into force as a matter of urgency.
- (34) The measures provided for in this Regulation are in accordance with the opinion of the Committee for Fisheries and Aquaculture,

HAS ADOPTED THIS REGULATION:

Article 1

Derogation

The first subparagraph of Article 4(1), the first subparagraph of Article 13(1) and Article 13(2) of Regulation (EC) No 1967/2006 shall not apply in the territorial waters of France adjacent to the coast of the Provence-Alpes-Côte d'Azur region to 'gangui' trawlers fulfilling the following requirements:

- (a) bearing a registration number mentioned in the French management plan adopted by France in accordance with Article 19 of Regulation (EC) No 1967/2006;
- (b) having a track record in the fishery of more than five years and not involving any future increase in fishing effort provided;
- (c) holding a fishing authorisation and operating under the management plan adopted by France in accordance with Article 19 of Regulation (EC) No 1967/2006.

Article 2

Reporting

By June of each year following the entry into force of this Regulation and by June 2021 for the first time, France shall submit to the Commission a report, based on scientific and technical data, on the implementation of the additional control and monitoring measures and on the compliance with the requirements for granting the derogation provided for by this Regulation.

Article 3

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 12 May 2020 until 11 May 2022.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 5 February 2021.

For the Commission
The President
Ursula VON DER LEYEN
