COMMISSION IMPLEMENTING REGULATION (EU) 2021/1761

of 5 October 2021

extending a derogation from Council Regulation (EC) No 1967/2006 as regards the minimum distance from coast, the minimum sea depth and the prohibition to fish in protected habitats for shore seines fishing in territorial waters of Croatia

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) On 22 October 2018, the Commission adopted Implementing Regulation (EU) 2018/1586 ([2]) establishing a derogation from Article 4(1), first subparagraph and Article 13(1), first subparagraph of Regulation (EC) No 1967/2006 as regards the minimum distance from coast, the minimum sea depth and the prohibition to fish in protected habitats for shore seines fishing in territorial waters of Croatia. The derogation concerned the use of traditional shore seines 'girarica' and 'migavica' fishing for picarels *(Spicara smaris*), as well as for the use of traditional shore seine of large mesh size 'šabakun' fishing for greater amberjack (*Seriola dumerili*), traditional shore seine 'oližnica' fishing for sand smelt (*Atherina boyeri*) within the Croatian territorial waters. The derogation expires on 26 October 2021.

(2) On 22 March 2021, the Commission received a request from Croatia for an extension of that derogation concerning the use of traditional shore seine 'oližnica', fishing for sand smelt (*Atherina boyeri*) and traditional shore seines 'girarica' and 'migavica', fishing for picarels (*Spicara smaris*) within the Croatian territorial waters. With the same request, Croatia requested the extension of the derogation of the first subparagraph of Article 4(1) of Regulation (EC) No 1967/2006, in relation to traditional shore seines 'girarica' and 'migavica', fishing for picarels (*Spicara smaris*).

(3) Croatia provided up-to-date information and technical justifications for the renewal of that derogation.

(4) Croatia adopted the management plan by Ministerial Ordinance ([3]) in accordance with Article 19(2) of Regulation (EC) No 1967/2006 ('Croatian management plan') on 15 September 2021.

(5) The request concerns fishing activities already authorised by Croatia and covers vessels which have a track record of more than 5 years in the fishery and operate under the Croatian management plan.

(6) The request covers 71 vessels listed in the Croatian management plan regulating operations of shore seines in Croatian territorial waters, and the Croatian management plan guarantees no further increase of the fishing effort, as required by Article 13(9) of Regulation (EC) No 1967/2006.

(7) Those vessels are included on a list communicated to the Commission in line with Article 13(9) of Regulation (EC) No 1967/2006.

([1]) OJ L 409, 30.12.2006, p. 11.

([2]) Commission Implementing Regulation (EU) 2018/1586 of 22 October 2018 establishing a derogation from Council Regulation (EC) No 1967/2006 as regards the minimum distance from coast, the minimum sea depth and the prohibition to fish above protected habitats for shore seines fishing in territorial waters of Croatia (O.J. L 264, 23.10.2018, p. 16).

([3]) 'Pravilnik o obavljanju gospodarskog ribolova na moru obalnim mrežama potegačama, OJ 30/18 and its amendments 49/18, 78/18, 54/19, 27/21 and 100/21'

(8) The Scientific, Technical and Economic Committee for Fisheries ('STECF') assessed the extension of the derogation requested by Croatia and the related Croatian management plan at its plenary session from 22 to 26 March 2021 ([4]).

(9) STECF noted that the management plan presents major improvements compared with the previous one, regarding in particular selectivity improvements, and attempts to conduct exploratory stock assessments and reference points.

(10) The extension of the derogation requested by Croatia comply with the conditions set out in Article 4(5) and Article 13(5) and (9) of Regulation (EC) No 1967/2006.

(11) The extension of the derogation requested by Croatia affects a limited number of vessels, compared with the large distribution area of the total national fleets, representing less than 1 % of the entire Croatian fleet and less than 1 % of the gross tonnage ('GT') of all national fleet.

(12) There are specific geographical constraints which limit the fishing grounds given both the distinct morphological structure of Croatia, comprising of long coastline including numerous islands and the spatial distribution of the target species, which is exclusively limited in certain specific sites and zones in the coastal areas at depths of less than 50 meters.

(13) With respect to fishing for picarels by shore seines 'girarica' and 'migavica', the request concerns fishing activities by vessels of less than or equal to 12 meters overall length and engine power of less than or equal to 85 kW with bottom towed nets traditionally undertaken on *Posidonia* beds, in accordance with Article 4(5), first subparagraph of Regulation (EC) No 1967/2006. In addition, the fishing activity with respect to picarels fishing affects approximately 4 % of the area covered by seagrass beds of *Posidonia oceanica,* within the area covered by the management plan, and less than 3 % of seagrass beds, in the territorial waters of Croatia, in accordance with the requirements of Article 4(5), first subparagraph, points (ii) and (iii) of Regulation (EC) No 1967/2006.

(14) The fishery cannot be undertaken with other gears, since only shore seines have the technical characteristic necessary to carry out this type of fishery.

(15) Moreover, the fishery has no significant impact on the marine environment, as shore seines are very selective gears. The Croatian management plan sets out all relevant definitions on the fisheries concerned and guarantees that fishing authorisations will be issued only to specified 71 vessels that are authorised to fish by Croatia. In this respect, it is noted that, in line with the Croatian management plan and the Ministerial Ordinance, the fishing grounds for shore seines nets 'miavica', 'girarica' and 'oližnica' are established in Annex II of the Croatian management plan, while shore seines 'oližnica' fishing for sand smelt, shall be permitted only in the defined area of fishing subzone 'E4' and part of the subzone 'F2'. Additionally, the use of shore seine nets is prohibited in the areas identified as national parks and special habitats.

(16) The fishing activities concerned fulfil the requirements of Article 4(1), second paragraph of Regulation (EC) No 1967/2006, as the seines are hauled in the water column and do not touch the seabed.

(17) The requirements of Article 8(1), point (h) of Regulation (EC) No 1967/2006, as replaced by Article 8(1) and Annex IX, Part B, section I to Regulation (EU) 2019/1241 of the European Parliament and of the Council ([5]), are not applicable since they relate to trawlers.

([4]) Scientific, Technical and Economic Committee for Fisheries (STECF) – 66th Plenary Report (PLEN-21-01). EUR 28359 EN, Publications Office of the European Union, Luxembourg, 2021, available here: https://stecf.jrc.ec.europa.eu/reports/plenary/-/asset_publisher/oS6k/document/id/2851300

([5]) 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) No 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).

(18) Croatia authorised a derogation from the minimum mesh size with regard to use of traditional shore seines 'oližnica' fishing for sand smelt (*Atherina boyeri*) established in Article 9(3) of Regulation (EC) No 1967/2006 on the basis of the fulfillment of the requirements of Article 9(7) of that Regulation given the highly selective nature of the fisheries concerned, its negligible effect on the marine environment and that it is not affected by the provisions in Article 4(5) of Regulation (EC) No 1967/2006.

(19) Article 9 of Regulation (EC) No 1967/2006 was deleted by Regulation (EU) 2019/1241. However, according to Annex IX, Part B, point 4 to Regulation (EU) 2019/1241, derogations from minimum mesh sizes adopted on basis of Article 9 of Regulation (EC) No 1967/2006, that were in force on 14 August 2019, can continue to apply, provided they do not lead to the increase in catches of juveniles. The extension of the derogation requested by Croatia complies with the conditions laid down in Article 15(5) of Regulation (EC) No 1967/2006 and in Annex IX, Part B, point 4 to Regulation (EU) 2019/1241, as it does not lead to a deterioration of selectivity standards, in particular in terms of an increase in the catches of juveniles, existing on 14 August 2019, and aims at achieving the objectives and targets set out in Articles 3 and 4 of that Regulation.

(20) The Commission notes that Croatia did not authorise a derogation in its management plan from the requirements of Article 9(3) of Regulation (EC) No 1967/2006, as replaced by Article 8(1) and Annex IX, Part B, point 4 of Regulation (EU) 2019/1241, with regard to use of traditional shore seines 'girarica' and 'migavica', fishing for picarels (*Spicara smaris*).

(21) The fishing activities concerned take place at 500 meters from the coast and therefore do not interfere with the activities of other vessels.

(22) The Croatian management plan ensures that catches of species mentioned in Annex IX, Part A to Regulation (EU) 2019/1241 are minimal, since the targeted species are sand smelt (*Atherina boyeri*) and picarels (*Spicara smaris*), which are not mentioned in Annex IX, Part A to Regulation (EU) 2019/1241.

(23) Fishing activities are highly selective and do not target cephalopods.

(24) The Croatian management plan includes measures for the monitoring of fishing activities, as provided for in Article 4(5), fifth subparagraph and Article 13(9), third subparagraph of Regulation (EC) No 1967/2006.

(25) The fishing activities concerned fulfill the requirements set out in Article 14 of Council Regulation (EC) No 1224/2009 ([6]).

(26) The requested derogations should therefore be extended for two years.

(27) Croatia should report to the Commission in due time and in accordance with the monitoring plan provided for in the Croatian management plan.

(28) A limitation in duration of the derogation will allow ensuring prompt corrective management measures in case the report to the Commission shows a poor conservation status of the exploited stocks, while providing scope to enhance the scientific basis for an improved management plan.

(29) Since the derogation granted by Implementing Regulation (EU) 2018/1586 expired on 26 October 2021, in order to ensure legal continuity, this Regulation should apply with effect from 27 October 2021.

([6]) 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).

(30) For reasons of legal certainty, this Regulation should enter into force as a matter of urgency.

(31) This Regulation is without prejudice to the Commission's position regarding compliance of the activity covered by this derogation with other EU legislation, in particular Council Directive 92/43/EEC ([7]).

(32) The measures provided for in the Regulation are in accordance with the opinion of the Committee for Fisheries and Aquaculture,

HAS ADOPTED THIS REGULATION:

Article 1

Derogation

1. Article 4(1), first subparagraph of Regulation (EC) No 1967/2006 shall not apply in the territorial waters of Croatia to vessels fishing for picarels (*Spicara smaris*) by shore seines 'girarica' and 'migavica'.

2. Article 13(1), first subparagraph of Regulation (EC) No 1967/2006 shall not apply in the territorial waters of Croatia to vessels active in the following fisheries:

(a) sand smelt (*Atherina boyeri*) by shore seines 'oližnica'; and

(b) picarels (*Spicara smaris*) by shore seines 'girarica' and 'migavica;'

3. The shore seines referred to in paragraphs 1 and 2 shall be used by vessels:

(a) bear a registration number set out in the Croatian management plan adopted by Croatia

(b) have a track record in the fishery for more than 5 years and not involving any further increase in the fishing effort deployed; and

(c) hold a fishing authorisation and operate under the Croatian management plan in accordance with Article 19(2) of Regulation (EC) No 1967/2006.

Article 2

Monitoring plan and report

Croatia shall communicate to the Commission, by 26 October 2023, a report drawn up in accordance with the monitoring plan established in the Croatian management plan referred to in Article 1(3), point (c).

Article 3

Entry into force

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 27 October 2021 to 26 October 2023.

([7]) Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels, 5 October 2021.

For the Commission
The President
Ursula VON DER LEYEN