COMMISSION IMPLEMENTING REGULATION (EU) 2018/1634

of 30 October 2018

renewing the derogation from Council Regulation (EC) No 1967/2006 as regards the minimum distance from coast and the minimum sea depth for boat seines fishing for transparent goby (*Aphia minuta*) in certain territorial waters of Italy

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 13(5) thereof,

Whereas:

(1) 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 isobaths where that depth is reached at a shorter distance from the coast.

(2) At the request of a Member State, the Commission may allow 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.

(3) A derogation from Article 13(1) of that Regulation for the use of boat seines by vessels fishing for transparent goby (*Aphia minuta*) in the territorial waters of the Geographical Sub-Area 9, as defined in Annex I to Regulation (EU) No 1343/2011 of the European Parliament and of the Council ([2]) was granted until 31 March 2014 by Commission Implementing Regulation (EU) No 988/2011 ([3]).

(4) An extension of the derogation was granted until 31 March 2018 by Commission Implementing Regulation (EU) 2015/2407 ([4]).

(5) On 23 May 2018, the Commission received from Italy a request to extend the derogation which expired on 31 March 2018. Italy provided up-to-date information justifying the extension of the derogation.

(6) Italy adopted the management plan by Decree ([5]) in accordance with Article 19(2) of Regulation (EC) No 1967/2006. The management plan adopted is put in place to accompany the entire duration of the derogation.

(7) The Scientific, Technical and Economic Committee for Fisheries (STECF) assessed the derogation requested by Italy and the related updated management plan in July 2018 ([6]). The overall assessment by the STECF is positive, information on its biology and ecology, fleet and effort are well presented. STECF stated that the objectives proposed by the management plan are consistent with the objectives of Article 2 of Regulation (EU) No 1380/2013 ([7]) of the European Parliament and of the Council and with the relevant provisions of Article 6. The presence of other species in the catches is quite occasional. The boat-seine for transparent goby can be considered as selective gear while for species from the Annex III of Regulation (EC) No 1967/2006 the impact of this boat seine on these species can be considered as very low. STECF stated that the management plan contains a lot of elements for the monitoring and management of the fishing activities. STECF highlighted the need for

([1]) OJ L 409, 30.12.2006, p. 11.
([2]) Regulation (EU) No 1343/2011 of the European Parliament and of the Council of 13 December 2011 on certain provisions for fishing in the GFCM (General Fisheries Commission for the Mediterranean) agreement area and amending Council Regulation (EC) No 1967/2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea (OJ L 347, 30.12.2011, p. 44).
([3]) Commission Implementing Regulation (EU) No 988/2011 of 4 October 2011 establishing a derogation from Council Regulation (EC) No 1967/2006 as regards the minimum distance from coast and the minimum sea depth for boat seines fishing for transparent goby (*Aphia minuta*) in certain territorial waters of Italy (OJ L 260, 5.10.2011, p. 15).
([4]) Commission Implementing Regulation (EU) 2015/2407 of 18 December 2015 renewing the derogation from Council Regulation (EC) No 1967/2006 as regards the minimum distance from coast and the minimum sea depth for boat seines fishing for transparent goby (*Aphia minuta*) in certain territorial waters of Italy (OJ L 333, 19.12.2015, p. 104).
([5]) *Gazzetta Ufficiale della Repubblica Italiana 226*, 28.9.2018, supplemento ordinario n. 44.
([6]) https://stecf.jrc.ec.europa.eu/documents/43805/2147402/STECF+PLEN+18-02.pdf
([7]) Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

some clarifications on gears interaction on seabed, monitoring and scientific data. Italy was requested to examine these issues. In order to address the issue of improved scientific data, the Italian authorities agreed to update the management plan and re-enforce the compulsory reporting obligations with the commitment to provide preliminary scientific report at the end of the 2019-2020 fishing season.

(8) The extension of the derogation requested by Italy complies with the conditions laid down in Article 13(5) and (9) of Regulation (EC) No 1967/2006.

(9) There are specific geographical constraints given both the limited size of the continental shelf and the spatial distribution of the target species, which is exclusively limited to certain zones in the coastal areas at depths smaller than 50 m. Hence, the fishing grounds are limited.

(10) STECF expressed some concerns on the lack of updated data on spatial distribution of fishing operations in relation to the distribution of the seagrass habitats. However, it should be noted that with respect to the impact on the seabed, the observations carried out on board during the fishing seasons have shown that the boat-seine operates effectively only on the clean seabed, made of sand or mud while fishing is prohibited over *Posidonia* beds. Account taken of the above, it is concluded that boat seines fishing has no significant impact on protected habitats and is very selective, since the seines are hauled in the water column and do not touch the seabed because collection of material from the seabed would damage the target species and make the selection of the fished species virtually impossible due to their very small size.

(11) Boat seines fishing is carried out close to the shore in shallow depths. The nature of this type of fishery is such that it cannot be undertaken with any other gears.

(12) The derogation requested by Italy affects 117 vessels.

(13) The management plan presented by Italy guarantees no future increase of the fishing effort, as fishing authorisations will be issued to specified 117 vessels, involving a total effort of 5 886,9 kW that are already authorised to fish in Italy.

(14) The request covers vessels with a track record in the fishery of more than five years

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

(16) The fishing activities concerned fulfil the requirements of Article 4 of Regulation (EC) No 1967/2006 since the Italian management plan explicitly prohibits to fish above protected habitats.

(17) The requirements of Article 8(1)(h) of Regulation (EC) No 1967/2006 are not applicable since they relate to trawlers.

(18) As regards the minimum mesh size requirement laid down in Article 9(3) of Regulation (EC) No 1967/2006, it should be noted that, given the fishing activities concerned are highly selective, have a negligible effect on the marine environment and are not carried out above protected habitats, Italy authorised in the management plan in line with Article 9(7) of Regulation (EC) No 1967/2006 a derogation from that requirement.

(19) The fishing activities concerned fulfil the recording requirements laid down in Article 14 of Council Regulation (EC) No 1224/2009 ([1]).

(20) The fishing activities concerned take place at a very short distance from the coast and therefore do not interfere with the activities of vessels using gears other than trawls, seines or similar towed nets.

(21) The activity of the boat seines is regulated in the Italian management plan to ensure that catches of species mentioned in Annex III to Regulation (EC) No 1967/2006 are minimal. Moreover, according to paragraph 5.1.2(a) of the Italian management plan, the fishing for *Aphia minuta* is limited to a fishing season from 1 November to 31 March each year and to a maximum of 60 days per boat for every fishing season.

([1]) Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union 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).

(22) Boat seines do not target cephalopods.

(23) The Italian management plan includes measures for the monitoring of fishing activities, as provided for in the third subparagraph of Article 13(9) of Regulation (EC) No 1967/2006.

(24) The requested extension of the derogation should therefore be granted.

(25) Italy should report to the Commission in due time and in accordance with the monitoring plan provided for in the Italian management plan.

(26) A limitation in duration of the derogation will allow ensuring prompt corrective 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.

(27) Accordingly, the derogation should apply until 31 March 2021.

(28) 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

Article 13(1) of Regulation (EC) No 1967/2006 shall not apply in territorial waters of Italy adjacent to the coast of Liguria and Tuscany, to fishing for transparent goby (*Aphia minuta*) with boat seines used by vessels:

(a) registered in the maritime Directorates (Direzione Marittima) of Genova and Livorno respectively;

(b) having a track record in the fishery of more than five years and not involving any future increase in the fishing effort deployed; and

(c) having a fishing authorisation and operating under the management plan adopted by Italy in accordance with Article 19(2) of Regulation (EC) No 1967/2006.

Article 2

Monitoring plan and report

Italy shall communicate to the Commission, within one year following the entry into force of this Regulation, a report drawn up in accordance with the monitoring plan established in the management plan referred to in Article 1(c).

Article 3

Entry into force and period of application

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

It shall apply until 31 March 2021.

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

Done at Brussels, 30 October 2018.

For the Commission

The President

Jean-Claude JUNCKER