COMMISSION IMPLEMENTING REGULATION (EU) 2018/922

of 28 June 2018

derogating from Council Regulation (EC) No 1967/2006 as regards the minimum distance from the coast and the minimum sea depth for boat seines fishing for sand eel (*Gymnammodytes cicerelus* and *G. semisquamatus*) and gobies (*Aphia minuta* and *Crystalogobius linearis*) in certain territorial waters of Spain (Catalonia)

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 isobath 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 the first subparagraph of Article 13(1) of that Regulation was granted until 8 May 2017 by Commission Implementing Regulation (EU) No 464/2014 ([2]).

(4) On 6 November 2017, the Commission received from Spain a request for derogation from Article 13(1) of that Regulation.

(5) Spain provided up-to-date scientific and technical information justifying the derogation.

(6) The Scientific, Technical and Economic Committee for Fisheries ('STECF') assessed the derogation requested by Spain together with the implementation report of the related management plan in January 2018 ([3]).

(7) STECF noted that the management plan is guided by the principles of good governance, including decision-making based on the best available scientific evidence, the maximum possible involvement of stakeholders and a long-term perspective. Moreover, STECF noted that Spain proposed new studies for finding ways for the reduction of discards and fixed strong limitations in the fishing effort, notably in the periods of reduced availability of the resources.

(8) The derogation requested by Spain 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 the limited size of the continental shelf and the spatial distribution of the target species which limit the fishing grounds.

(10) The fishery has no significant impact on marine environment 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) The derogation requested by Spain affects a limited number of 26 vessels.

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

([2]) Commission Implementing Regulation (EU) No 464/2014 of 6 May 2014 derogating from Council Regulation (EC) No 1967/2006 as regards the minimum distance from the coast and the minimum sea depth for boat seines fishing for sand eel (*Gymnammodytes cicerelus* and *G. semisquamatus*) and gobies (*Aphia minuta* and *Crystalogobius linearis*) in certain territorial waters of Spain (Catalonia) (OJ L 134, 7.5.2014, p. 37).

([3]) STECF report (STECF-18-01): https://stecf.jrc.ec.europa.eu/reports/management-plans

(12) The fishery cannot be undertaken with other gears since there is no other regulated gear, which, due to its structure, technical characteristics and the type of mesh used, can capture the target species.

(13) The management plan guarantees no future increase in the fishing effort, as fishing authorisations are issued only to the specified 26 vessels and a maximum ceiling of effort is defined.

(14) The request covers vessels registered in the maritime census managed by the Autonomous Community of Catalonia which have a track record in the fishery of more than five years and which operate under a management plan adopted by Spain on 27 March 2014 ([1]) and prolonged on 26 April 2018 ([2]) until 31 December 2021.

(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 related 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 requirement to comply with Article 9(3) establishing the minimum mesh size, the Commission notes 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, in line with Article 9(7) of Regulation (EC) No 1967/2006 Spain authorised a derogation from these provisions in its management plan.

(19) The fishing activities concerned fulfil the recording requirements set out in Article 14 of Council Regulation (EC) No 1224/2009 ([3]).

(20) The fishing activities concerned do not interfere with the activities of vessels using gears other than trawls, seines or similar towed nets.

(21) The activity of boat seines is regulated in the Spanish management plan to ensure that catches of species mentioned in Annex III to Regulation (EC) No 1967/2006 are minimal.

(22) Boat seines do not target cephalopods.

(23) The Spanish 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 derogation should therefore be granted.

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

(26) 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 improve the scientific basis for an improved management plan.

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

---

([1]) Diari Oficial de la Generalitat de Catalunya, No 6591 of 27.3.2014, page 1.

([2]) Orden APM/445/2018, de 26 de abril, por la que se prorroga la vigencia del Plan de gestión de la sonsera en el litoral catalán aprobado por la Orden AAM/87/2014, de 20 de marzo. Boletin Oficial del Estado, Num. 107, sec. III, pagina 47609, 3.5.2018.

([3]) 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).

HAS ADOPTED THIS REGULATION:

Article 1

Derogation

Article 13(1) of Regulation (EC) No 1967/2006 shall not apply in territorial waters of Spain adjacent to the coast of the Catalan region to fishing for sand eel (*Gymnammodytes cicerelus* and *G. semisquamatus*) and gobies (*Aphia minuta* and *Crystalogobius linearis*) by boat seines which are used by vessels:

(a) registered in the maritime census managed by the Autonomous Community of Catalonia;

(b) having a track record in the fishery of more than five years; and

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

Article 2

Reporting

Spain shall communicate to the Commission, within three years 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 2 July 2021.

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

Done at Brussels, 28 June 2018.

For the Commission

The President

Jean-Claude JUNCKER