COMMISSION IMPLEMENTING REGULATION (EU) 2024/755

of 29 February 2024

on extending the derogation 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 transparent and Ferrer's gobies (*Aphia minuta* and *Pseudaphia ferreri*) and Lowbody picarel (*Spicara smaris*) in certain territorial waters of Spain (Balearic Islands)

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 the first subparagraph of Article 13(1) of Regulation (EC) No 1967/2006, provided that the conditions set out in Article 13(5) and (9) of that Regulation are fulfilled.

(3) The Commission allowed a derogation from Article 13(1), first subparagraph, for the use of boat seines fishing transparent goby and Ferrer's gobies (*Aphia minuta* and *Pseudaphia ferreri*) and Lowbody picarel (*Spicara smaris*) within the Spanish territorial waters of the Balearic Islands for the first time until 6 December 2016 by Commission Implementing Regulation (EU) No 1233/2013 ([2]). An extension of that derogation was granted by Commission Implementing Regulation (EU) 2019/662 ([3]), which expired on 31 December 2019. A further extension of that derogation was granted by Commission Implementing Regulation (EU) 2020/1243 ([4]), which expired on 30 April 2023.

(4) Autonomous Community of Balearic Islands amended its management plan on 31 May 2021 ([5]) and submitted monitoring reports on its implementation in November 2021, January and June 2023. Following the STECF reports, Spain requested the extension of the derogation in October 2023.

([1]) OJ L 409, 30.12.2006, p. 11, ELI: http://data.europa.eu/eli/reg/2006/1967/oj.

([2]) Commission Implementing Regulation (EU) No 1233/2013 of 29 November 2013 establishing a derogation from Regulation (EC) No 1967/2006 as regards the minimum distance from coast and the minimum sea depth for boat seines fishing for transparent and Ferrer's gobies (*Aphia minuta* and *Pseudaphia ferreri*) and Lowbody picarel (*Spicara smaris*) in certain territorial waters of Spain (Balearic Islands) (OJ L 322, 3.12.2013, p. 17, ELI: http://data.europa.eu/eli/reg_impl/2013/1233/oj).

([3]) Commission Implementing Regulation (EU) 2019/662 of 25 April 2019 extending 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*), Ferrer's goby (*Pseudaphia ferreri*) and Lowbody picarel (*Spicara smaris*) in certain territorial waters of Spain (Balearic Islands) (OJ L 112, 26.4.2019, p. 16, ELI: http://data.europa.eu/eli/reg_impl/2019/662/oj).

([4]) Commission Implementing Regulation (EU) 2020/1243 of 1 September 2020 on extending the derogation 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 transparent and Ferrer's gobies (*Aphia minuta* and *Pseudaphia ferreri*) and Lowbody picarel (*Spicara smaris*) in certain territorial waters of Spain (Balearic Islands) (OJ L 286, 2.9.2020, p. 5, ELI: http://data.europa.eu/eli/reg_impl/2020/1243/oj).

([5]) Decreto 31/2021, de 31 de mayo, por el cual se regula el marisqueo profesional y recreativo en las Illes Balears y se modifica el Decreto 19/2019, de 15 de marzo, por el que se establece el Plan de Gestión Pluriinsular para la pesca con artes de tiro tradicionales en aguas de las Illes Balears (BOIB núm. 71, de 1 de junio de 2021, p. 184-185).

(5) During its 73rd plenary session held in July 2023, the Scientific, Technical and Economic Committee for Fisheries (STECF) assessed the request for extending the derogation, the supporting data and the monitoring reports ([6]). STECF recommendations have been taken into consideration by Spain, which confirmed that the Vessel Monitoring System (VMS) data will be used to know more precisely where the hauls are carried out, that observers have already been contracted for the next fishing seasons and that there is a periodic and permanent monitoring of the Posidonia beds of the Baleares ([7]).

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

(7) In particular, there are specific geographical constraints given the limited size of the continental shelf and the limited extend of the trawlable fishing grounds, as the target species is exclusively limited to certain zones in the coastal areas at depths of less than 50 metres.

(8) Moreover, the management plan guarantees no future increase in the fishing effort, as required by Article 13(9) of Regulation (EC) No 1967/2006. Fishing authorisations will only be issued to specified 55 vessels, each limited to 12 m in size and 198,5 kW in power that are already authorised to fish.

(9) The fishery has no significant impact on the marine environment, since boat seines are hauled in the water column and do not touch the seabed. Due to the use of echo sounders, the fishery is highly selective with few bycatches. Besides, unwanted catches are immediately released alive with very high survivability. Boat seines do not target cephalopods.

(10) The fishery cannot be undertaken with another gear, as boat seines are the only regulated gear allowed to capture these three target species with a schooling behaviour in shallow coastal waters.

(11) The request concerns fishing activities already authorised by Spain, for vessels that are registered in the Spanish National Operational Fishing Fleet Census and have a track record in the fishery of more than five years in accordance with Article 13(9) of Regulation (EC) No 1967/2006.

(12) Spain has previously authorised a derogation from the minimum mesh size laid down in Article 9 of Regulation (EC) No 1967/2006 on the basis of the fulfilment 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 that Regulation.

(13) Although the provisions of Article 9 of Regulation (EC) No 1967/2006 were deleted by Regulation (EU) 2019/1241 of the European Parliament and of the Council ([8]), point 4 of Part B of Annex IX to Regulation (EU) 2019/1241 allows derogations from minimum mesh sizes issued within the framework of Article 9 of Regulation (EC) No 1967/2006 and which were in force on 14 August 2019 to continue to apply on the basis of the conditions referred to in Article 15(5) of Regulation (EU) 2019/1241.

(14) The Commission has assessed this derogation extension requested by Spain and concluded that it complies with the conditions laid down in Article 15(5) of Regulation (EU) 2019/1241 and point 4 of Part B of Annex IX to that Regulation. This derogation does not lead to a deterioration of selectivity standards, in particular in terms of an increase in the catches of juveniles. It aims at achieving the objectives and targets set out in Articles 3 and 4 of Regulation (EU) 2019/1241.

([6]) https://stecf.jrc.ec.europa.eu/documents/43805/67497497/STECF+PLEN+23-02.pdf/94846c76-e677-408e-b23c-ec0d572a9bca

([7]) 27 October 2023.

([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, ELI: http://data.europa.eu/eli/reg/2019/1241/oj).

(15) The fishery concerned fulfils the requirements of Article 4(1) of Regulation (EC) No 1967/2006, since the management plan prohibits fishing above *Posidonia oceanica,* maërl and coralligenous habitats.

(16) The fishing activities concerned fulfil the recording requirements laid down in Article 14 of Council Regulation (EC) No 1224/2009 ([9]).

(17) The fishery concerned takes place at a very short distance from the coast and therefore does not interfere with the fishing activities of other vessels.

(18) The fishery concerned is regulated in the management plan adopted by Spain to ensure that catches of species mentioned in Annex IX of Regulation (EU) 2019/1241 are minimal.

(19) The management plan amended on 15 December 2023 ([10]) includes measures for the monitoring of the fishery, in accordance with Article 13(9), third subparagraph, of Regulation (EC) No 1967/2006.

(20) The requested derogation should therefore be granted.

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

(22) A limitation in the duration of the derogation will allow ensuring prompt corrective management measures in case the monitoring of the management plan will show a poor conservation status of the exploited stock, while providing scope to enhance the scientific basis for an improved management plan. The end of the derogation should be fixed at the end of the fishing season. Accordingly, the derogation should apply until 30 April 2026.

(23) Since the derogation granted by Implementing Regulation (EU) 2020/1243 expired on 30 April 2023, in order to ensure legal continuity, this Regulation should apply from 1 May 2023. For reasons of legal certainty, this Regulation should enter into force as a matter of urgency.

(24) This Regulation is without prejudice to the Commission's position regarding compliance of the activity covered by this derogation with other Union legislation, in particular Council Directive 92/43/EEC ([11]).

(25) 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 13(1) of Regulation (EC) No 1967/2006 shall not apply to vessels using boat seines fishing for transparent and Ferrer's gobies (*Aphia minuta* and *Pseudaphia ferreri*) and Lowbody picarel (*Spicara smaris*) within the Spanish territorial waters of the Balearic Islands. Those vessels shall fulfill all the following requirements:

(a) being registered in the maritime census managed by the Directorate-General for Fisheries and Marine Environment of the Balearic Islands;

([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, ELI: http://data.europa.eu/eli/reg/2009/1224/oj).

([10]) Decreto 91/2023.

([11]) 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, ELI: http://data.europa.eu/eli/dir/1992/43/oj).

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

(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

Monitoring plan and reporting

Spain shall communicate to the Commission a report drawn up in accordance with the monitoring plan established in the management plan referred to in Article 1(c), for the first time by 30 September 2024 and, thereafter, every 12 months.

Article 3

Entry into force and period of application

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 1 May 2023 until 30 April 2026.

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

Done at Brussels, 29 February 2024.

For the Commission
The President
Ursula VON DER LEYEN