



2023/2230

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COMMISSION IMPLEMENTING REGULATION (EU) 2023/2230

of 25 October 2023

extending the derogation from Council Regulation (EC) No 1967/2006 as regards the minimum distance from the coast and depth granted to boat seines fishing for transparent goby (*Aphia minuta*) within the Spanish territorial waters of the Autonomous Community of the Region of Murcia

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 (*Aphia minuta*) within the Spanish territorial waters of the Autonomous Community of the Region of Murcia for the first time until 31 December 2016 by Commission Implementing Regulation (EU) No 773/2013 ⁽²⁾. An extension of that derogation was granted by Commission Implementing Regulation (EU) 2017/677 ⁽³⁾, which expired on 31 December 2019. A further extension of that derogation was granted by Commission Implementing Regulation (EU) 2020/1242 ⁽⁴⁾, which expired on 1 March 2023.
- (4) Spain submitted monitoring reports in 2020, 2021 and 2022 on the implementation of the Spanish management plan adopted by Spain on 19 December 2019 ⁽⁵⁾.
- (5) On 4 October 2022, the Commission received from Spain a request to extend the derogation granted by Implementing Regulation (EU) 2020/1242. Spain provided a new management plan for 2023 onwards and up-to-date information in the monitoring reports to justify the renewal of the derogation.

⁽¹⁾ OJ L 409, 30.12.2006, p. 11.

⁽²⁾ Commission Implementing Regulation (EU) No 773/2013 of 12 August 2013 establishing a 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 goby (*Aphia minuta*) in certain territorial waters of Spain (Murcia) (OJ L 217, 13.8.2013, p. 28).

⁽³⁾ Commission Implementing Regulation (EU) 2017/677 of 10 April 2017 on extending the derogation from Council Regulation (EC) No 1967/2006 as regards the minimum distance from the coast and depth granted to boat seines fishing for transparent goby (*Aphia minuta*) in certain territorial waters of Spain (Murcia) (OJ L 98, 11.4.2017, p. 4).

⁽⁴⁾ Commission Implementing Regulation (EU) 2020/1242 of 1 September 2020 on extending the derogation from Council Regulation (EC) No 1967/2006 as regards the minimum distance from the coast and depth granted to boat seines fishing for transparent goby (*Aphia minuta*) in certain territorial waters of Spain (Murcia) (OJ L 286, 2.9.2020, p. 1).

⁽⁵⁾ 'Orden de 19 de diciembre de 2019, de la Consejería de Agua, Agricultura, Ganadería, PESCA y Medio Ambiente, por la que se regula la pesquería del chanquete (*Aphia minuta*) en aguas interiores de la Región de Murcia', Official Journal of the Region of Murcia, number 294, 21.12.2019, p. 35423.

- (6) During its 72nd plenary session held in March 2023, the Scientific, Technical and Economic Committee for Fisheries (STECF) ⁽⁶⁾ assessed the request for extending the derogation, the supporting data, the monitoring reports and the related draft management plan ⁽⁷⁾. STECF recognised that the implementation of the management plan meets the conditions upon which the derogation was granted and that the management plan contains the elements necessary for limiting the level of exploitation of transparent goby in the Murcia region.
- (7) On 21 September 2023, Spain adopted the management plan regulating the fishery of transparent goby (*Aphia minuta*) in the internal waters of the Region of Murcia ⁽⁸⁾ in accordance with Article 19 of Regulation (EC) No 1967/2006.
- (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) 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 meters.
- (10) 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 27 vessels that are already authorised to fish, involving a maximum capacity of 116 Hp per vessel.
- (11) 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.
- (12) The fishery cannot be undertaken with another gear, as boat seines are the only regulated gear allowed to capture species of a size as small as transparent goby and with a schooling behaviour in shallow coastal waters.
- (13) 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.
- (14) 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 Regulation (EC) No 1967/2006.
- (15) Although the provisions of Article 9 of Regulation (EC) No 1967/2006 were deleted by Regulation (EU) 2019/1241 ⁽⁹⁾, 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 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.

⁽⁶⁾ Scientific, Technical and Economic Committee for Fisheries (STECF) – 72nd Plenary report (STECF-PLN-23-01). Publications Office of the European Union, Luxembourg, 2023, doi:10.2760/977664, JRC133392

⁽⁷⁾ Scientific, Technical and Economic Committee for Fisheries (STECF). Management Plan for boat seines in Murcia, Spain (STECF-PLN-23-01, p. 28-35). Publications Office of the European Union, Luxembourg, 2023, ISBN 978-92-68-02683-0, doi:10.2760/977664, JRC133392.

⁽⁸⁾ 'Orden de 26 de septiembre de 2023, de la Consejería de Agua, Agricultura, Ganadería y PESCA, por la que se regula la pesquería del chanquete (*Aphia minuta*) en aguas interiores de la Región de Murcia', Official Journal of the Region of Murcia, number 223, 26.9.2023, p. 26470.

⁽⁹⁾ 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).

- (16) 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, as it does not lead to a deterioration of selectivity standards, in particular in terms of an increase in the catches of juveniles and aims at achieving the objectives and targets set out in Articles 3 and 4 of that Regulation.
- (17) The fishery concerned fulfils the requirements of Article 4(1) of Regulation (EC) No 1967/2006, since the fishery does not operate above seagrass beds, in particular of *Posidonia oceanica* or other marine phanerogams.
- (18) The fishing activities concerned fulfil the recording requirements laid down in Article 14 of Council Regulation (EC) No 1224/2009 ⁽¹⁰⁾.
- (19) 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.
- (20) 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.
- (21) Boat seines do not target cephalopods.
- (22) The management plan adopted by Spain includes measures for the monitoring of the fishery, in accordance with Article 13(9), third subparagraph, of Regulation (EC) No 1967/2006.
- (23) The requested derogation should therefore be granted.
- (24) Spain should report to the Commission in due time and in accordance with the monitoring plan provided for in the Spanish management plan.
- (25) 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.
- (26) Since the derogation granted by Implementing Regulation (EU) 2020/1242 expired on 1 March 2023, this Regulation should apply from 2 March 2023.
- (27) In order to ensure legal continuity, the end of the derogation should be fixed at the end of the fishing season, end of February.
- (28) For reasons of legal certainty, this Regulation should enter into force as a matter of urgency.
- (29) The Committee for Fisheries and Aquaculture has not delivered an opinion within the time limit laid down by its chair,

⁽¹⁰⁾ 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 to boat seines fishing for transparent goby (*Aphia minuta*) within the Spanish territorial waters of the Autonomous Community of the Region of Murcia. Those vessels shall fulfil all the following requirements:

- (a) be registered in the maritime census managed by the Directorate-General for Agriculture, Livestock, Fisheries and Aquaculture of the Autonomous Community of the Region of Murcia;
- (b) have a track record in the fishery of more than five years and not involve any future increase in fishing effort provided;
- (c) hold a fishing authorisation and operate under the management plan adopted by Spain in accordance with Article 19 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 1 June 2024 and, thereafter, every 12 months.

Article 3

Entry into force and 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 2 March 2023 until 1 March 2026.

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

Done at Brussels, 25 October 2023.

For the Commission
The President
Ursula VON DER LEYEN