

**COMMISSION IMPLEMENTING REGULATION (EU) 2022/1989****of 20 October 2022****renewing 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 (Manfredonia)**

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 <sup>(1)</sup>, 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 three 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) On 2 March 2018, the Commission adopted Implementing Regulation (EU) 2018/317 <sup>(2)</sup> establishing a derogation from Article 13(1), first subparagraph of Regulation (EC) No 1967/2006 in accordance with the procedure under Article 13(5) thereof, 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 Italy (Manfredonia), which expired on 8 March 2021.
- (4) On 10 March 2021 the Commission received from Italy a request for an extension of that derogation.
- (5) Italy provided up-to-date scientific and technical justifications for the renewal of that derogation.
- (6) Italy adopted a management plan by Decree <sup>(3)</sup> in accordance with Article 19(2) of Regulation (EC) No 1967/2006 ('Italian management plan') on 11 February 2022. The management plan adopted is put in place to accompany the entire duration of the derogation.
- (7) The request concerns fishing activities already authorised by Italy and covers vessels registered in the maritime Directorate of Manfredonia which have a track record in the fishery of more than 5 years and operate under the Italian management plan regulating boat seines fishing for transparent goby (*Aphia minuta*) in the Manfredonia fishing district.
- (8) The derogation requested by Italy covers a total of 60 vessels, from the 100 vessels authorised in 2018, with a maximum of 30 vessels being authorised daily, through a turnover mechanism. The Manfredonia fleet targeting transparent goby (*Aphia minuta*) is smaller than 15 m in length overall. The Italian management plan excludes any future increase in the fishing effort, as required by Article 13(9) of Regulation (EC) No 1967/2006. It can therefore be concluded that the derogation affects a limited number of vessels.

<sup>(1)</sup> OJ L 409, 30.12.2006, corrected version in OJ L 36, 8.2.2007, p. 6.

<sup>(2)</sup> Commission Implementing Regulation (EU) 2018/317 of 2 March 2018 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 62, 5.3.2018, p. 1).

<sup>(3)</sup> Gazzetta Ufficiale della Repubblica Italiana 88, 14.4.2022, p. 55

- (9) Those vessels are included on a list communicated to the Commission in line with Article 13(9) of Regulation (EC) No 1967/2006.
- (10) The Scientific, Technical and Economic Committee for Fisheries (STECF) assessed the extension of the derogation requested by Italy and the related management plan at its Plenary sessions of March <sup>(4)</sup> and July <sup>(5)</sup> 2021. During those sessions, STECF noted that the Italian management plan contained various technical elements to be further clarified. In March 2021, STECF highlighted the need for clarifications on reference levels, fisheries data, locations of fishing operations and technical gear specifications. In July 2021, after the presentation of a revised management plan, the STECF highlighted that there was still a need for clarifications about the socioeconomic data, bycatches, the gear design and the trigger point's reference levels. In order to address these issues, the Italian authorities agreed to update the management plan relating to those elements.
- (11) The STECF assessed the extension of the derogation requested by Italy and the related Italian revised management plan at its plenary session of November 2021 <sup>(6)</sup>. The overall assessment by the STECF is positive and that the draft management plan contains the main elements required for supporting the request. STECF considers that the revised management plan has significantly improved, it sets more precautionary trigger points and remedial actions in case of low biomass. STECF also concludes that the new measures introduced in the Italian management plan are more restrictive than in the previous plan. Nevertheless, STECF noted that all data foreseen to be collected under the Italian management plan (catch of all species, size compositions, discards and socioeconomic data) should be clearly described and the data should be consistently collected, analysed and reported in order to adequately monitor the effectiveness of the management plan. Italy agreed to include in the plan a closer monitoring of the fleet fishing operations.
- (12) The derogation requested by Italy complies with the conditions laid down in Article 13(5) and (9) of Regulation (EC) No 1967/2006.
- (13) In particular, 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. The fishing grounds are therefore limited.
- (14) Boat seines' fishing has no significant impact on the 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.
- (15) 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.
- (16) The fishing activities concerned fulfil the requirements of Article 4 of Regulation (EC) No 1967/2006 since the Italian management plan explicitly prohibits fishing above protected habitats.
- (17) As regards the requirement to comply with minimum mesh sizes, Italy authorised previously a derogation from the minimum mesh size established 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.

<sup>(4)</sup> Scientific, Technical and Economic Committee for Fisheries – 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/2871668](https://stecf.jrc.ec.europa.eu/reports/plenary/-/asset_publisher/oS6k/document/id/2871668)

<sup>(5)</sup> Scientific, Technical and Economic Committee for Fisheries – 67th Plenary Report (Plen 21-02). 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/10267322](https://stecf.jrc.ec.europa.eu/reports/plenary/-/asset_publisher/oS6k/document/id/10267322)

<sup>(6)</sup> Scientific, Technical and Economic Committee for Fisheries – 68th Plenary Report (Plen 21-03). 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/15101327](https://stecf.jrc.ec.europa.eu/reports/plenary/-/asset_publisher/oS6k/document/id/15101327)

- (18) Annex IX, Part B, point 4 to Regulation (EU) 2019/1241 of the European Parliament and of the Council <sup>(7)</sup> allows for the continued application of derogations from minimum mesh sizes issued within the framework of Article 9 of Regulation (EC) No 1967/2006 unless otherwise determined through Article 15 of Regulation (EU) 2019/1241.
- (19) The Commission has assessed this derogation extension request by Italy 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 (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 fishing activities concerned take place at a very short distance from the coast in shallow waters within the three nautical miles stripe and therefore do not interfere with any other vessels' activity or gears other than trawls, seines or similar towed nets.
- (21) The activity of boat seines is regulated in the Italian management plan to ensure that catches of species mentioned in Annex IX, Part A to Regulation (EU) 2019/1241, which replaces Annex III to Regulation (EC) No 1967/2006, are minimal. Moreover, according to Chapter 5.1.2 of the Italian management plan, the fishing for transparent goby (*Aphia minuta*) is limited to a fishing season from 1 November to 31 May each year and to a maximum of 60 days per boat for every fishing season.
- (22) Boat seines are highly selective and do not target cephalopods.
- (23) The Italian management plan includes measures for the monitoring of fishing activities, as provided for in Article 13(9), third subparagraph of Regulation (EC) No 1967/2006.
- (24) The fishing activities concerned fulfil the recording requirements laid down in Article 14 and 15 of Council Regulation (EC) No 1224/2009 <sup>(8)</sup>.
- (25) The requested extension of the derogation should therefore be granted for 3 years.
- (26) Italy should report to the Commission in due time and in accordance with the monitoring plan provided for in the Italian management plan.
- (27) A limitation in duration of the derogation should be introduced, 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 enhance the scientific basis for an improved management plan.
- (28) Since the derogation granted by Implementing Regulation (EU) 2018/317 expired on 8 March 2021 and the fishing season starts on 1 November each year, in order to ensure legal continuity, this Regulation should apply with effect from 1 November 2021.
- (29) For reasons of legal certainty, this Regulation should enter into force as a matter of urgency.
- (30) The Committee for Fisheries and Aquaculture has not delivered an opinion within the time limit laid down by its chair,

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<sup>(7)</sup> 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).

<sup>(8)</sup> 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**

1. Article 13(1), first subparagraph of Regulation (EC) No 1967/2006 shall not apply in territorial waters of Italy adjacent to the coast of the Manfredonia Gulf, to boat seines used by vessels fishing for transparent goby (*Aphia minuta*).
2. The boat seines referred to in paragraph 1 shall be used by vessels:
  - (a) registered in the maritime Directorate of Manfredonia;
  - (b) having a track record in the fishery of more than 5 years and not involving any future increase in the fishing effort deployed; and
  - (c) holding 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 1 year following the entry into force of this Regulation, a report drawn up in accordance with the monitoring plan established in the Italian management plan referred to in Article 1(2), point (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 from 1 November 2021 to 31 May 2024.

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

Done at Brussels, 20 October 2022.

*For the Commission*  
*The President*  
Ursula VON DER LEYEN

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