

Opinion on the European Economic and Social Committee on 'Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1224/2009, and amending Council Regulations (EC) No 768/2005, (EC) No 1967/2006, (EC) No 1005/2008, and Regulation (EU) 2016/1139 of the European Parliament and of the Council as regards fisheries control'

(COM(2018) 368 final — 2018/0193 (COD))

(2019/C 110/22)

Rapporteur: **Emilio FATOVIC**

Referral	Parliament, 10.9.2018 Council, 5.7.2018
Legal basis	Articles 43(2) and 304 of the Treaty on the Functioning of the European Union
Plenary assembly decision	19.6.2018 and 18.9.2018
Section responsible	Agriculture, Rural Development and the Environment
Adopted in section	27.11.2018
Adopted at plenary	12.12.2018
Plenary session No	539
Outcome of vote (for/against/abstentions)	219/1/2

1. Conclusions and recommendations

1.1. The Economic and Social Committee (EESC) broadly endorses the Commission's legislative proposal on fisheries control. However, some of the problems already raised by stakeholders in the sector have not been adequately addressed or clearly resolved.

1.2. The EESC refers once again to the principle that sustainability must be upheld from an economic, social and environmental point of view. It notes in this respect that the Commission's proposal is not based on a clear impact assessment of an economic and social type, something that would however be appropriate in the light of the profound crisis being experienced by the sector in a number of European countries, with major implications for jobs and the economy in coastal areas.

1.3. The Commission proposal fails to take account of two serious and significant issues: Brexit and climate change, both of which are likely to change — in different ways — how and where fishing takes place. Appropriate studies and interventions are therefore needed to avoid imbalances in the fisheries sector.

1.4. The system of controls and sanctions, based on what is known as the 'points system' of licensing, should be implemented uniformly and equitably across the whole of the EU in order to guarantee both fair competition between stakeholders and the quality and traceability of fisheries products in the interests of, and for the health of, all European citizens. At the same time, penalties must be based on risk management criteria, they must be proportionate and they must act as an effective deterrent.

1.5. The EESC believes that digitisation is undoubtedly an important tool for ensuring more efficient and effective controls. Nevertheless, the Committee notes that, with respect to the previous legislation, obligations on fishing operators have not been reduced to any significant extent (this is particularly the case for small-scale fishing) and nor have they been sufficiently simplified, as the Commission said they would. It recommends conducting further investigations into the practical applicability of certain rules, particularly as regards vessels below 10 metres in length.

1.6. The EESC is opposed to the blanket obligation to install closed circuit television (CCTV) in vessels, on the grounds that this is contrary to basic labour law and the right to privacy and business secrecy. The EESC therefore proposes that Member States carry out risk assessments on certain fleet segments that tend to commit a high level of serious and

widespread infringements and, depending on their history of previous non-compliance, that supervisory authorities require these vessels to install CCTV. To verify compliance with the landing obligation, the EESC proposes stepping up the use of on-board observers and recommends introducing a voluntary scheme for installing CCTV, providing incentives for shipowners who decide to sign up. At the same time, it recommends making the temporary installation of CCTV mandatory where vessels have committed multiple serious infringements.

1.7. The new EMFF 2021-2027 will play a key role in enabling European vessels to adapt to the new legal provisions. It is imperative that funding be readily accessible at national level for all those who request it. In particular, the Committee is opposed to introducing retroactive rules whereby, in the event of a single serious infringement, the operator would be obliged to repay any funds previously received and correctly reported.

1.8. The EESC points out that the worst instances of fraud and failure to comply with basic labour and environment law occur in third countries, and yet fish caught as a result of such illegal practices still ends up on European tables with relative ease. It is important for the new traceability systems to address these problems as well, by monitoring the entire supply chain. It is also noted that cases of labour exploitation still occur to this day on some European vessels. The Committee therefore recommends that the supervisory authorities pay special attention to this issue and introduce harsh sanctions to put an end to it once and for all.

1.9. The EESC notes that it is difficult to adapt successful models offered by multiannual plans for single-species fisheries to mixed fisheries, and this can have a severe impact on the environment and on the economy. The Committee therefore recommends a system for collecting more detailed data on stock with a view to devising ad hoc strategies that can better protect biodiversity without causing excessive damage to the fisheries sector.

1.10. The EESC finds that the system of incentives to encourage fishing operators to return nets to land should be extended to all types of waste picked up at sea while fishing. An initiative of this kind would prove crucial for cleaning the seas, since to date fishing operators have had to pay for pollution that they have not caused. The EESC believes that, with appropriate training, fishing operators could provide important added value, contributing on the one hand to cleaning the sea and on the other to creating a virtuous mechanism whereby the activity they carry out is economically integrated.

2. Background

2.1. The success of the Common Fisheries Policy (CFP) depends primarily on implementing an effective control and enforcement system. These measures are provided for in four different legal acts: 1) the Fisheries Control Regulation; 2) the Regulation establishing a European Fisheries Control Agency (EFCA); 3) the Regulation establishing a system to combat illegal, unreported and unregulated fishing (IUU Regulation); and 4) the Regulation on the sustainable management of the external fishing fleets (SMEF).

2.2. With the exception of the SMEF Regulation, which was recently revised, the current Fisheries Control System (FCS) was designed prior to the reform of the CFP and for this reason is not completely consistent with it. Moreover, these measures date back over 10 years and neither reflect current and future needs in terms of fisheries data and fleet control, nor correspond to new fishing practices and techniques, and new control technologies and data exchange systems. Finally, they fail to take account of some important initiatives adopted by the EU, such as the plastics strategy, the digital single market strategy and ocean governance.

2.3. Thus, although the current FCS is an improvement on the previous set-up, certain shortcomings have been confirmed in the Commission's REFIT evaluation, in a special report by the European Court of Auditors and in a European Parliament resolution. Stakeholders, too, have confirmed that there are limitations in the present system, hence the need for a review of the current regulatory framework in its entirety.

3. Summary of the Commission proposal

3.1. The Commission proposal consists of amending five regulations and seeks to: 1) bridge the gaps between the CFP and other EU policies; 2) simplify the legislative framework and reduce unnecessary administrative burdens; 3) improve availability, reliability and completeness of fisheries data and information, in particular of catch data, and allow exchange and sharing of information; and 4) remove obstacles that hinder the development of a culture of compliance and the equitable treatment of operators within and across Member States.

3.2. *Amendments to Council Regulation (EC) No 1224/2009⁽¹⁾ establishing a Community control system for ensuring compliance with the rules of the common fisheries policy*

3.2.1. Inspection and surveillance. Clarification is provided of the inspection process and the duties of inspectors, masters and operators. Inspection reports will be digitised, making for better use and exchange of data between the relevant authorities and the Member States.

3.2.2. Sanctions. A list of common criteria is introduced to establish the types of serious infringement. Mandatory administrative sanctions and minimum levels of fines are established for serious infringements, to render the sanctioning system more effective and more of a deterrent in all the Member States and to ensure a level playing field. Furthermore, the 'points system' is strengthened and clarified for licensed vessels.

3.2.3. Data. Mandatory digitised tracking systems and catch declarations are introduced, to be applied to all EU fishing vessels, including those below 12 meters in length (LOA, length overall). For small-scale fishing, a simplified system using mobile phones is provided for. Recreational fishing will also be subject to more stringent controls. The use of digital tools is intended to guarantee the traceability of the entire supply chain (including products imported from third countries) and systematically monitor on-board activity, including by means of closed circuit television cameras (CCTV) to control the landing obligation.

3.2.4. Alignment with other EU policies. Reporting fishing gear losses is simplified by making entries in the (electronic) fishing logbook more accurate. The obligation to have the necessary equipment on board for retrieving gear is also extended to fishing vessels of less than 12 metres. Measures are introduced to mark and monitor fishing gear used in recreational fishing.

3.3. *Amendments to Council Regulation (EC) No 768/2005⁽²⁾ establishing a European Fisheries Control Agency*

3.3.1. The proposal extends the geographical scope of the inspection powers of the European Fisheries Control Agency (EFCA) by no longer limiting it to international waters. Amendments are introduced to simplify the management and exchange of data, as well as rules to simplify the EFCA's financial procedures.

3.3.2. In July 2018 the Commission combined these measures in proposal COM(2018) 499 to codify Regulation (EC) No 768/2005 on the EFCA, replacing and including the various rules that it incorporates. This proposal has already been endorsed by the EESC in a specific opinion on the subject⁽³⁾.

3.4. *Amendment to Regulation (EC) No 1005/2008⁽⁴⁾ establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing*

3.4.1. The amendment of the EU's Catch Certification Scheme includes setting up a data base to manage catch certificates (CATCH), which will allow for risk-based controls, reduce the risk of fraudulent imports and ease the administrative burden for the Member States. The operational functions of the CATCH will be developed in different phases. Implementing and delegated powers are conferred on the Commission relating to the functioning and further development of the CATCH. Inspections and sanctions are aligned with the new rules.

4. General comments

4.1. The Commission's legislative initiative is in line with the positions expressed by the Member States, regional and local authorities and stakeholders, and is generally endorsed. The purpose is to clarify the regulatory framework on controls, simplifying it, modernising it and bringing it into line with policy and regulatory developments, ensuring legal certainty and in practice making it easier to implement uniformly across the whole of the European Union.

⁽¹⁾ OJ L 343, 22.12.2009, p. 1.

⁽²⁾ OJ L 128, 21.5.2005, p. 1.

⁽³⁾ EESC opinion (NAT/756) on the *European Fisheries Control Agency (codification)* (OJ C 62, 15.2.2019, p. 310).

⁽⁴⁾ OJ L 286, 29.10.2008, p. 1.

4.2. After careful analysis, it appears that in spite of the broad consultations which the Commission states it carried out, some of the problems raised by stakeholders in the fisheries sector (e.g. the landing obligation, excessive red tape and the proportionality of the sanctioning system) have not been adequately addressed and/or clearly resolved in the new legislative proposal ⁽⁵⁾.

4.3. The EESC refers once again to the principle that sustainability must be upheld from an economic, social and environmental point of view. Thus, whilst the overriding objective continues to be the sustainability of fisheries, the fisheries sector must be placed in a position to accomplish this. This is why environmental measures cannot be divorced from the need to improve other crucial aspects such as working conditions and safety in the workplace, generational renewal, corporate profitability, vocational training of employees and the vitality of coastal communities.

4.4. The Committee notes that the Commission's proposed regulations fail to take account of two serious and significant issues: Brexit and climate change. The first should trigger a complete overhaul of the related stability mechanism, together with a reduction in the opportunities for fishing in waters that are today European. The other, climate change, is causing significant changes in the behaviour and habitats of fish, with increasing reports of large-scale migration.

4.5. The EESC notes that the Commission's proposal is not based on a clear economic and social impact assessment. This is compounded by the fact that the fisheries sector in some regions of the EU has been experiencing a crisis for over 20 years, and the measures adopted to date by the Commission on sustainability and aquaculture have not managed to buck the trend ⁽⁶⁾. It is for this reason that the Committee has requested DG Employment to intervene promptly by launching a wide-scale debate in the framework of sector-specific social dialogue ⁽⁷⁾ so as to pinpoint the most appropriate measures for evaluating and, if necessary, offsetting the economic and social impact of the proposals ⁽⁸⁾.

4.6. The recent critical report by the Court of Auditors prioritises the need for the system of controls and sanctions, based on what is known as the 'points system' of licensing, to be implemented uniformly and equitably across the whole of the EU in order to guarantee both fair competition between stakeholders and the quality and traceability of fisheries products in the interests of, and for the health of, all European citizens.

4.7. The EESC believes that digitisation is undoubtedly an important tool for ensuring more efficient and effective controls. Equally positive is the fact that simplified digital control measures are provided for vessels of less than 12 metres in length (LOA), such as mobile phone geolocation apps, although in the open sea there are wide areas with no coverage, making it impossible to monitor vessels. Nevertheless, the Committee notes that, with respect to the previous legislation, obligations on fishing operators have not been reduced to any significant extent (this is particularly the case for small-scale fishing) and nor have they been sufficiently simplified, as the Commission said they would.

4.8. Digital control measures should make for real savings, both financially and time-wise. While extending all of the obligations to small-scale fishing would be possible insofar as Member States will have a two-year transition period, which should enable specific local features to be taken into account, this could be burdensome for vessels of less than 10 metres in length, which often have no control room and only a single crew-member. In this particular case, additional investigations are recommended to assess feasibility in practice, striking a balance between the need for controls and the effective capacity of fishing operators to comply with all these requirements.

4.9. In this respect, the EESC notes that the measures introduced to clarify the sanctions system will certainly be of benefit to the sector. However, it is essential to apply them in the same way in the various Member States and to ensure that they are based in practice on risk management criteria, that they are proportional and that they act as a deterrent. In particular, some contradictory aspects emerge from an analysis of the proposal, such as linking the amount of fines to the market value of the catch (from two to five times the value of the product), something that — depending on the geographical area, the period of the year and the relative abundance of the species — could vary enormously and even have the effect of encouraging infringements of the law.

⁽⁵⁾ The Mediterranean Advisory Council (MEDAC), the Long Distance Fleet Advisory Council (LDAC) and the Association of national organisations of fishing enterprises (EUROPÊCHE) have repeatedly issued requests and specific proposals for overcoming the problems currently facing the sector, but these are not reflected in the legislative package put forward by the Commission.

⁽⁶⁾ In Italy, with an 8 000 km coastline, the number of fishing vessels has declined by around 33 % in the last 30 years. Fishing vessels are on average aged 34 years and are in urgent need of being modernised or replaced by new vessels; over the past 30 years 18 000 jobs have been lost (the fishing sector in Italy has 27 000 workers). Data: Italian Ministry of Agriculture, Food and Forestry, 2016.

⁽⁷⁾ In the framework of the EU Sectoral Social Dialogue Committee — Sea Fisheries (EUSSDC).

⁽⁸⁾ EESC opinion (NAT/749) on the *European Maritime and Fisheries Fund (EMFF)* (see page 104 of the current Official Journal).

4.10. The EMFF is a crucial and essential tool for bringing about the transition to the new system of controls envisaged by the Commission. The Committee is against the principle — already contained in the present system of controls and the current EMFF — whereby a serious infringement triggers the immediate repayment of any EU funding received in the preceding five years. This rigid, retroactive measure is one of the main causes of delay in achieving the EMFF objectives, in that it has dissuaded many fishing operators from requesting EU funding for fear that they would have to repay it in the event of serious infringements, even though the infringements sometimes incur only very limited fines. It is therefore necessary to ensure that sanctions are more proportionate, so that their deterrent effect does not become a disincentive.

4.11. The EESC is totally opposed to the obligation to install CCTV on board fishing vessels in order to verify compliance with the landing obligation. The EESC believes that measures of this kind run counter to the fundamental rules of labour law and to the right to privacy and business secrecy, particularly since they are established on a blanket basis without any assessment of the potential risk in the light of previous repeated breaches of rules. The EESC therefore proposes that Member States carry out risk assessments on certain fleet segments that tend to commit a high level of serious and widespread infringements and, depending on their history of previous non-compliance, that supervisory authorities require these vessels to install CCTV. The Committee is convinced that achieving the sector's environmental sustainability objectives and revitalising it will not come about through 'Big Brother' style monitoring and controls of fishing activities, but by means of clear, certain and transparent rules and sanctions that are applied effectively and uniformly throughout the EU.

4.12. The EESC would in particular propose making better and more robust use of on-board observers. Furthermore, it recommends setting up a voluntary scheme for installing CCTV based, for example, on the incentive of a possible increase in catch size for species at MSY level (maximum sustainable yield), using the Member State's reserve quota where available, or priority and facilitated controls and landing schemes. At the same time, it recommends mandatory installation of CCTV on a temporary basis for vessels that have committed multiple serious infringements.

4.13. The EESC is of the view that the new EMFF 2021-2027 will play a key role in enabling European vessels to adapt to the new legal provisions. In particular, it is imperative that funding be readily accessible at national level for all those who request it.

4.14. As already stated in other opinions⁽⁹⁾, the EESC considers it important to establish fishing capacity by means of more appropriate parameters regarding tonnage and engine power, since these are crucial for ensuring the safety of the on-board crew as well as for achieving more sustainable levels of CO₂ emissions.

5. Specific comments

5.1. Overfishing is certainly one of the fundamental causes of the decline of fish in the sea. Nevertheless, the Committee considers that this fact should be considered alongside other practices that are also harmful to marine species, including pollution, climate change, maritime transport and underwater drilling (noise pollution). A more open approach is essential for devising effective strategies for protecting marine habitats.

5.2. An effective system of sanctions must be straightforward and clear to apply if it is to serve as a real deterrent. The Committee notes that even though it is the decisions and behaviour of the master of the fishing vessel that are in effect being sanctioned, the points-based licensing system may in some cases have an adverse effect on the crew, including tough measures such as the suspension of the fishing license. Where a fishing license is suspended⁽¹⁰⁾, protective measures must be put in place for those working on board fishing vessels: with contracts linking pay to a proportion of the catch, they risk losing their wages unless they can find another vessel to work on or can immediately change job. Given that the sector is in difficulty, this constant drain on human resources, skills and knowledge risks inflicting even more severe damage on the prospects for recovery.

5.3. The EESC agrees with the proposal to extend the system of controls to recreational fishing as well, since there have been many recent cases of this being used as a means of circumventing the rules in force for 'conventional' fishing. In particular, it recommends paying special attention to recreational fishing that constitutes a source of income, to distinguish it from recreational fishing for personal purposes and consumption. This measure is essential in order to protect fishing operators who comply with the law and to combat forms of unfair competition or, in more serious cases, illegal fishing.

⁽⁹⁾ EESC opinion (NAT/749) on the *European Maritime and Fisheries Fund (EMFF)* (see footnote 8).

⁽¹⁰⁾ The suspension of fishing licenses, based on the criterion of repeat offending, may last from a minimum of four months to a maximum of one year, and may result in the definitive withdrawal of the license.

5.4. Whilst agreeing that it is vital to guarantee the traceability of fishery products, abolishing the exemption from declaring estimated catches of less than 50 kg in the logbook may create problems, particularly for small-scale fishing operators. If they are to complete all the bureaucratic formalities, which may be lengthy in multi-stock waters such as the Mediterranean, they risk wasting an undue amount of time before landing, and therefore not being able to sell the fish caught at the best price. The Committee therefore recommends maintaining the existing threshold, and closely monitoring that this does not give rise to any undesired effects.

5.5. The new traceability device proposed by the Commission, particularly for imported products, is endorsed. Indeed, instances of fraud and failure to comply with basic labour law (ILO conventions) and environment law occur mainly in third countries, and yet fish caught as a result of these illegal practices still ends up on European tables with relative ease. However, it is important to note that exploitative labour practices still occur to this day on some European vessels⁽¹¹⁾, calling for special attention on the part of those responsible for controls and for harsh sanctions to put an end to such practices once and for all.

5.6. The Committee points out that the intensive network of traceability controls in place cannot be discontinued at the point of 'first sale', as the entire supply chain needs to be monitored, 'from the sea to the table'. Here, too, the Committee recommends actively involving all relevant stakeholders, from wholesale and processing right through to retail sales.

5.7. The 2017 Malta MedFish4Ever Declaration is one of the main pillars of EU action. Nevertheless, the EESC considers that specific technical and conservation measures for fish stocks should be adapted to the various fishing techniques and to the biological characteristics of the sea. The EESC has noted in particular that it is difficult to adapt successful models offered by multiannual plans for single-species fisheries to mixed fisheries, something that can have a severe impact on the environment and on the economy⁽¹²⁾. The Committee therefore recommends a system for collecting more detailed data on stock with a view to devising ad hoc strategies that can better protect biodiversity without causing excessive damage to the fisheries sector⁽¹³⁾.

5.8. As already highlighted in previous opinions⁽¹⁴⁾, the EESC believes that the combination of a rigid quota system with the new landing obligation represents one of the greatest problems in the sector. The high costs entailed in the transition to more sustainable fishing (e.g. selective nets) must be entirely supported by EMFF funding. The EESC would like to see a simplified and pragmatic system of controls, based on risk analysis, and envisions major action at national level, with stakeholder support, to promote the transition of a huge number of vessels.

5.9. The Commission proposes that all fishery products be weighed by registered operators at the time of landing, before being stored, transported or sold. The EESC thinks it is important to keep the current option of carrying out sample checks. In addition, where the fisheries products are transported prior to being placed on the market or where the first sale is in a third country, it recommends maintaining the current limit of transmission of due documentation to the competent authorities within 48 hours of landing in order to avoid delays and the consequent deterioration in quality.

⁽¹¹⁾ See article from *The Guardian* 'We thought slavery had gone away': African men exploited on Irish boats.

⁽¹²⁾ General Fisheries Commission for the Mediterranean (GFCM), *The State of Mediterranean and Black Sea Fisheries*, 2016, p. 26. As highlighted by the GFCM, part of the Food and Agriculture Organisation (FAO), in single-species seas it is easier to carry out targeted fishing because few types of fish coexist there and so it is easy to set catch limitations. In contrast, in multi-species seas many species of fish can be found in the same area.

⁽¹³⁾ EESC opinion on the *Multiannual plan for small pelagic fisheries in the Adriatic Sea* (OJ C 288, 31.8.2017, p. 68). EESC opinion (NAT/749) on the *European Maritime and Fisheries Fund (EMFF)* (see footnote 8).

⁽¹⁴⁾ EESC opinion on the *Landing obligation* (OJ C 311, 12.9.2014, p. 68). Point 1.2 '[The Committee] believes that the Commission's proposal is unnecessarily complicated and will generate an undue and disproportionate amount of additional work for fishing operators when it comes to applying the landing obligation. As a result, it advocates opting for more pragmatic, clear, straightforward and flexible rules that genuinely give fishing operators time to adapt during a transitional period, without facing heavy penalties'.

5.10. The EESC welcomed the Commission proposal on single-use plastics ⁽¹⁵⁾, and in particular the incentives to return broken or damaged fishing gear to land so that it can be recycled ⁽¹⁶⁾. This measure, combined with the new measure on ports ⁽¹⁷⁾, opens up new scenarios and opportunities for sustainable fisheries and the circular economy. The EESC finds that the system of incentives to encourage fishing operators to return nets to land should be extended to all types of waste picked up at sea while fishing. It is also important to verify that the introduction of increased producer responsibility does not result in firms in the fisheries sector paying more to purchase nets. The EMFF could be the most suitable financial instrument for supporting this.

5.11. An initiative of this kind would prove crucial for cleaning the seas, since to date fishing operators are the ones who have to pay to unload waste items collected while fishing. These items, among other things, constitute 90 % of what is caught in fishing nets, and fishing operators are also obliged to sort the waste and, if it is not possible to identify it, to classify it as 'special waste' calling for specific forms of treatment. In practice, under current rules, fishing operators have to pay to clean up the sea from pollution which they have not caused. The EESC believes that, with appropriate training, fishing operators could provide important added value, contributing on the one hand to cleaning the sea and on the other to creating a virtuous mechanism whereby the activity they carry out is economically integrated ⁽¹⁸⁾.

Brussels, 12 December 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

⁽¹⁵⁾ EESC opinion (NAT/742) on *Single-use plastics* (OJ C 62, 15.2.2019, p. 207).

⁽¹⁶⁾ COM(2018) 340 final.

⁽¹⁷⁾ COM(2018) 33 final.

⁽¹⁸⁾ EESC opinion on the *Strategy on plastics in a circular economy, including action on marine litter* (OJ C 283, 10.8.2018, p. 61).

EESC opinion (NAT/742) on *Single-use plastics* (see footnote 15).

EESC opinion (NAT/749) on the *European Maritime and Fisheries Fund (EMFF)* (see footnote 8).