



COMMISSION OF THE EUROPEAN COMMUNITIES

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2003/157 (CNS)

Proposal for a

COUNCIL REGULATION

amending Council Regulation (EC) No 2561/2001 aiming to promote the conversion of fishing vessels and of fishermen that were, up to 1999, dependent on the fishing agreement with Morocco

(presented by the Commission)

EXPLANATORY MEMORANDUM

The agreement on the relations as regards sea fishing between the European Community and the Kingdom of Morocco expired on 30 November 1999; at that date, more than 400 fishing vessels and about 4 300 fishermen were forced to stop their activities.

Council Regulation (EC) No 2561/2001 aiming to promote the conversion of vessels and of fishermen that were, up to 1999, dependent on the fishing agreement with Morocco introduces a number of derogations from certain provisions of Regulation (EC) No 2792/1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector.

The necessary conversion is of exceptional magnitude and does not result from a deliberate choice by the stakeholders. In view of this array of constraints, the Council is justified in adopting exemption conditions, more favourable than the standard conditions, for a limited period of time.

It has also been necessary to facilitate the permanent cessation of activity of the vessels, whether by demolition or by transfer to a third country, including within the framework of joint enterprises; it is also appropriate to facilitate the replacement of fishing gear for the permanent conversion towards other fishing activities, either in Community waters or in the waters of third countries with which the Community has concluded fisheries agreements.

Concerning the fishermen, it is certain that a significant number of them will be unable to find a job in the fishing industry, and the Community should contribute to their reclassification or if necessary help them to stop working. In this regard, Regulation (EC) No 2792/1999 makes it possible to allocate public appropriations, with FIG part-financing, to the implementation of individual or collective social plans for their conversion from sea fishing.

Regulation (EC) No 2561/1999 provides that where a fishermen is paid an individual lump sum, the maximum eligible cost referred to in Article 12(3)(b) and (c) of Regulation (EC) No 2792/1999 is to be increased by 20%. The other provisions of Article 12 continue to apply to the grant of individual lump sums.

Under Article 12(3)(b) of Regulation (EC) No 2792/1999, individual lump sums may be paid to fishermen provided the fishing vessel on which they were employed has permanently stopped its activities, within the meaning of Article 7 of that Regulation.

However, the fishermen covered by the Morocco specific measure did not themselves take the decision to permanently stop the fishing activity of the vessel on which they were employed and may find themselves unemployed in the same way as fishermen whose vessel has permanently ceased its activity following conversion of the vessel to another activity in Community waters or other fishing methods.

In the interests of equal treatment of fishermen and in order to cover the largest possible number, the rules restricting the grant of individual lump sums exclusively to fishermen whose vessel has permanently stopped its activities should be abolished.

According to Article 1 of Regulation (EC) No 2561/2001, fishermen are eligible for individual lump sums provided the Member States concerned notify the Commission, no later than three months after the entry into force of that Regulation, of the list of names of the fishermen meeting the conditions referred to, namely fishermen to whom compensation was

granted, during 2000 and 2001, under Article 16(1)(b) of Regulation (EC) No 2792/1999, owing to the non-renewal of the fishing agreement with Morocco, for at least a six-month cumulative period of temporary cessation of activity. The Member States concerned all sent their lists of names to the Commission within the deadline laid down in the Regulation.

The derogation rules provided for in Article 2(1) of Regulation (EC) No 2561/2001 apply only to premiums and public aid granted under an administrative decision taken between 1 July 2001 and 30 June 2003 by the managing and paying authorities operating in the context of Structural Fund assistance to fisheries in Spain and in Portugal during 2000-06. The final date for eligibility of the expenditure is fixed at 31 December 2003 and the last date for submission to the Commission of the request for payment of the balance is 30 June 2004.

For the purposes of the said derogation, the above-mentioned dates must also be amended by **twelve months**, only for the grant of individual lump sums as referred to in Article 12(3)(b).

So that the proposed derogations can be applied, the reference date for taking account of the period of unemployment should be set at 1 January 2002, instead of being fixed in relation to the date on which the premium is paid. If the beneficiary has taken up work as a fisherman again within one year from 1 January 2002, the sum paid will be reimbursed *pro rata temporis*.

The derogations proposed in this draft regulation do not require any supplementary Community budgetary funding.

Legal bases

The proposed legal bases are Articles 36 and 37 of the EC Treaty.

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amending Council Regulation (EC) No 2561/2001 aiming to promote the conversion of fishing vessels and of fishermen that were, up to 1999, dependent on the fishing agreement with Morocco

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 36 and 37 thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Parliament²,

Having regard to the opinion of the European Economic and Social Committee³,

Having regard to the opinion of the Committee of the Regions⁴,

Whereas:

- (1) The agreement on the relations as regards sea fishing between the European Community and the Kingdom of Morocco became null and void on 30 November 1999. Consequently, more than 400 fishing vessels and about 4 300 fishermen operating in that context were forced to stop their fishing activities at that date.
- (2) Council Regulation (EC) No 2561/2001 of 17 December 2001⁵ introduced derogations from Council Regulation (EC) No 2792/1999⁶ for shipowners and fishermen who were, up to 1999, dependent on the fishing agreement with Morocco, applicable to certain types of premiums and public aid granted by administrative decision between 1 July 2001 and 30 June 2003. The same Regulation introduced a specific action to supplement the measures taken in the context of Structural Fund assistance in the Member States concerned due to the non-renewal of the fisheries agreement with Morocco.

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

³ OJ C [...], [...], p. [...].

⁴ OJ C [...], [...], p. [...].

⁵ OJ L 344, 28.12.2001, as amended by Article 6 of Regulation (EC) No 2372/2002 of 20 December 2002, OJ L 358, 31.12.2002, p. 81.

⁶ OJ L 337, 30.12.1999, as last amended by Regulation (EC) No 2369/2002 of 20 December 2002, OJ L 358, 31.12.2002, p. 49.

- (3) The fishermen affected by the non-renewal of that fisheries agreement may find themselves unemployed following conversion of their vessel to another activity in the same way as fishermen whose vessel has permanently stopped its activity. In order to ensure that all fishermen are treated equally, the provisions stipulating that individual lump sums may be paid to fishermen only provided the fishing vessel on which they were employed has permanently stopped its activities should be abolished.
- (4) The minimum period of less than one year referred to in Article 12(4)(c) of Regulation (EC) No 2792/1999 during which the fisherman may not work as a fisherman again without being required to pay back the premium received *pro rata temporis* should be calculated from 1 January 2002 - the date from which temporary cessation payments may no longer be paid - and not from the date on which the premium was actually paid.
- (5) In view of the deadlines currently in force, in order to be able to apply the abovementioned amendments, the time limits for the date of the administrative decision, the final date for eligibility of expenditure and the final date for presenting the request for payment of the balance should all be extended by twelve months,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2561/2001 is hereby amended as follows:

1. Article 2 is amended as follows:

(a) paragraph 1(d) is replaced by the following:

- d) in the case of an individual lump sum payment to a fisherman,
 - (i) the maximum eligible cost referred to in Article 12(3)(b) and (c) shall be increased by 20 %;
 - (ii) the requirement laid down in Article 12(3)(b) that beneficiaries must have been employed on a fishing vessel which has permanently ceased its activity within the meaning of Article 7 shall be abolished;
 - (iii) the period of less than one year referred to in Article 12(4)(c) shall run from 1 January 2002.

(b) Paragraph 2 is replaced by the following:

The derogation rules laid down in paragraph 1 shall apply only to premiums and public aid that have been granted under an administrative decision by the authorities referred to in Article 6, taken between 1 July 2001 and 30 June 2003. The latter date shall be 30 June 2004 for the premiums referred to in Article 12(3)(b).

2. Article 5(4) is replaced by the following:

The expenses actually paid by the final beneficiary from 1 July 2001 shall be eligible for the Community contribution under this measure. The deadline for eligibility of the expenditure shall be 31 December 2003. That date shall be 31 December 2004 for the premiums referred to in Article 12(3)(b).

The last date for submission to the Commission of the request for payment of the balance shall 30 June 2004. That date shall be 30 June 2005 for the premiums referred to in Article 12(3)(b).

Article 2

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

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

Done at Brussels,

For the Council
The President