

Research for PECH Committee – Implementation of the current EU fisheries control system by Member States (2014-19)

KEY FINDINGS

- The **length** of the national infringement procedures **varies considerably** between Member States, mainly depending on the procedure implemented based on **administrative or criminal law** and the possibility of **appeal**.
- The **most common type** of infringement is the following: Not fulfilling the **obligations to record and report catch** or catch-related **data**, including data to be transmitted by satellite vessel monitoring system.
- Since 2014, all Member States have implemented the **point system**. Nevertheless, the research has identified **substantial differences** in the way the Member States **allocate points**.
- It is recommended to **simplify** the criteria for the implementation of the point system; to provide **guidelines** for the definition of serious infringements; and to increase **transparency** in the access to information on points.
- Moreover, it is recommended to **increase** the number of **controls at sea**, to consider **enhanced cooperation** between relevant authorities and the European Fisheries Control Agency (EFCA), and to **harmonise** the level of detail of national registries for a level playing field.



Background

This study on the implementation of the current EU fisheries control system by Member States presents an update on a Parliament study from 2014, entitled '[The CFP-Infringement Procedures and Imposed Sanctions throughout the European Union](#)'. The present study examines the years 2014-2019 and was aiming to cover the state of play in all 22 coastal EU Member States.

The present document is the executive summary of the study on Implementation of the current EU fisheries control system by Member States (2014-19). The full study, which is available in English can be downloaded at: <https://bit.ly/2zmeRka>

The research centres on the infringement procedures and sanctions imposed by EU Member States in the field of fisheries and also provides an overview of the application of the point system for serious infringements in the different Member States. The aim is to establish background knowledge for the current legislative proposal for a revision of the current fisheries control system (see [2018/0193\(COD\)](#)). The ultimate objective is to contribute to the promotion of a level playing field in fisheries throughout the EU, promoting the equal application of infringement procedures and aiming at the harmonisation of sanctions imposed on EU vessels.

This paper has been prepared during the period March to June 2020 by Blomeyer & Sanz on the basis of desk research, stakeholder interviews, data requests addressed to all 22 Member States with a coastline. In addition this research presents seven case studies for Denmark, France, Germany, Ireland, Italy, Lithuania and Spain.

Infringement procedures

Infringement procedures in the different Member States might fall in the sphere of **administrative** and/or **criminal law**. Member States are free to choose the system they consider most adequate to guarantee the enforcement of the CFP rules. Most Member States have adopted administrative procedures, although in most cases, the administrative procedures are complemented with criminal procedures.

In most Member States, the **competent authorities for sanctions and controls** depend on the different Ministries of Agriculture and/or Fisheries at the national level. Nevertheless, the administrative organisation of the Member State influences the structure of the authorities (i.e. Germany and Spain have both national and regional competent authorities).

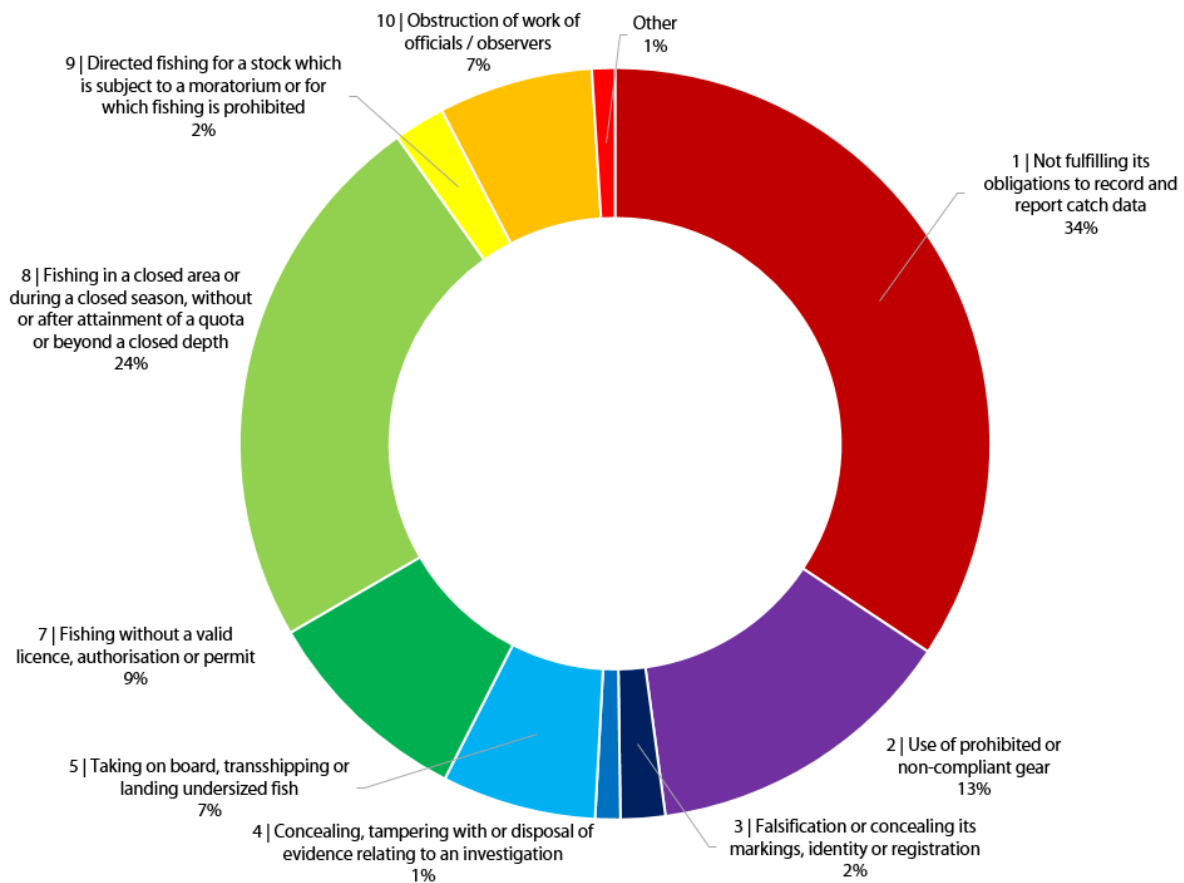
The **average length** of infringement procedures varies considerably between different countries. In some Member States infringement procedures are completed within only **days** whilst in others this can take several **years**. It depends on whether procedures are mainly administrative, criminal, or a combination of both, and on whether appeals procedures are in place.

It is worth noting the **considerable differences** between Member States regarding the number of identified infringements. For example, with a total of 14,882 infringements, Italy and Spain together sum 80% of the total amount of infringements of all the Member States combined (15 Member States that provided data). It is important to note that the number of infringements will normally result in a lower number of cases initiated and sanctions applied, which is based on investigations carried out to determine whether there is a basis or not for case proceedings.

The most common infringements are:

- Not fulfilling its **obligations to record and report catch** or catch-related data, including data to be transmitted by satellite vessel monitoring system (34%);
- Fishing in a **closed area or during a closed season**, without or after attainment of a quota or beyond a closed depth (24%);
- Use of **prohibited or non/compliant gear** according to EU legislation (13%).

The following figure shows the **number of infringements** classified by type of serious infringements in the EU (compare Annex XXX of [Commission Implementing Regulation \(EU\) No 404/2011](#))

Figure 1: Infringements per type in the observed EU Member States (2014-2019)¹

Source: Author based on data provided by the Member States

Sanctions

Regarding **minimum and maximum economic sanctions** laid down in national law, the main goal of the sanctions is to act as **deterrent** to those not complying with the rules of the CFP. It is very complex to compare the different sanctions in the Member States. For example, the **standard of living varies** considerably between different Member States, i.e. a sanction that is moderate in one Member States may be excessive and disproportionate in a different Member States. Sanctions range from a minimum of EUR 22 (serious infringement in Poland) to EUR 600,000 (very serious infringement in Spain).

Point system

One of the main goals of the sanctioning system is to ensure that sanctions should be a **deterrent** to those not complying with the rules of the CFP. In this sense, the Member States decide on the most adequate system of penalties and determine criteria for defining serious infringements. Concerning the **point system, all Member States have implemented** the system. Most of them have done this between 2013 and 2014, although there are some countries, such as Croatia, that only implemented it in 2017. In the case of Ireland, the implementation of the point system was in force from 2014 to 2016. Case study work identified **substantial differences** in the way the **Member**

States allocate points. Moreover, it is worth noting the different systems implemented by certain Member States for **rewarding good behavior**, resulting in the subtraction of penalty points. Even if all the Member States have transposed the Fisheries Control Regulation in their national legislation, not all of them actually attribute points. With 3,210 cases where points were assigned, Italy has attributed more points than all other Member States combined (3,607 cases for 15 Member States that provided data).

Recommendations

On the Point System:

- To **simplify** the current complexity of the point system in the proposed regulation.
- To **increase transparency** in access to information related to the point system.
- Regarding the point system for serious infringements there appears to be a need for more careful consideration of what should be the **definition of serious infringements** and the criteria to be used.
- The point system should not result in **disproportionate and severe sanctions** and the permanent suspension of fishing licenses. Due to consideration should be given to the **effectiveness** of the sanctioning system in place.
- The differences and **specificities according to regions/areas/fishery** should be considered.
- To clearly specify how to apply the penalty point system and to indicate both **aggravating and attenuating circumstances** when assigning penalty points. It is important to consider circumstances on a **case-by-case basis** and allow for **flexibility**.

On controls:

- To consider **cooperation** between national control authorities / EFCA and research institutes for more **efficient data collection and high-qualitative data**.
- To increase the **number of controls** at sea, which is particularly relevant in the context of the Last Haul programme and the control of the landing obligation.
- To introduce **camera monitoring** on vessels to allow a more effective control, but this should be carried out on a voluntary basis and with associated incentives.
- Consider the establishment of an **EU register of infringements**.
- To **harmonise the level of detail** included in the national registers of infringements.

Further information

This executive summary is available in the following languages: English, French, German, Italian and Spanish. The study, which is available in English, and the summaries can be downloaded at: <https://bit.ly/2zmeRka>

More information on Policy Department research for PECH:

<https://research4committees.blog/pech/>



Disclaimer and copyright. The opinions expressed in this document are the sole responsibility of the authors and do not necessarily represent the official position of the European Parliament. Reproduction and translation for non-commercial purposes are authorised, provided the source is acknowledged and the European Parliament is given prior notice and sent a copy. © European Union, 2020.
© Image on page 1 used under licence from Shutterstock.com

Research administrator: Marcus BREUER Editorial assistant: Mariana VÁCLAVOVÁ

Contact: Poldep-cohesion@ep.europa.eu

This document is available on the Internet at: www.europarl.europa.eu/supporting-analyses