

Measures for the recovery of European eel stocks *I**

European Parliament legislative resolution of 11 September 2013 on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1100/2007 establishing measures for the recovery of the stock of European eel (COM(2012)0413 – C7-0202/2012 – 2012/0201(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2012)0413),
 - having regard to Article 294(2) and Article 43(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0202/2012),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 14 November 2012¹,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Fisheries (A7-0242/2013),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C 11, 15.1.2013, p. 86.

Position of the European Parliament adopted at first reading on 11 September 2013 with a view to the adoption of Regulation (EU) No .../2013 of the European Parliament and of the Council amending Council Regulation (EC) No 1100/2007 establishing measures for the recovery of the stock of European eel

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Acting in accordance with the ordinary legislative procedure²,

Whereas:

(-1) *Based on information to be provided by Member States, the Commission should produce a report on the outcome of the implementation of the Eel Management Plans and, if necessary, propose, as a matter of urgency, appropriate measures to achieve, with a high probability, the recovery of the European eel. [Am. 1]*

(1) Council Regulation (EC) No 1100/2007³ confers powers upon the Commission in order to implement some of the provisions of that Regulation.

(2) As a consequence of ~~that~~ **the** entry into force of the Lisbon Treaty, the powers conferred under Regulation (EC) No 1100/2007 upon the Commission need to be aligned to ~~Articles 290 and Article~~ **Article** 291 of the Treaty on the Functioning of the European Union. **[Am. 2]**

(3) In order to apply certain provisions of Regulation (EC) No 1100/2007, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of taking measures to address a

¹ OJ C 11, 15.1.2013, p. 86.

² Position of the European Parliament of 11 September 2013.

³ Council Regulation (EC) No 1100/2007 of 18 September 2007 establishing measures for the recovery of the stock of European eel (OJ L 248, 22.9.2007, p. 17).

significant decline of average market prices for eels used for restocking, as compared to those of eels used for other purposes. *It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, based on latest scientific advice and scientific recommendations, especially at expert level, so as to ensure that the information available to it will be impartial, accurate, complete, and up to date. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous and timely transmission of relevant documents to the European Parliament and to the Council.* [Am. 3]

~~(4) It is of particular importance that the Commission carry out appropriate consultations during its preparatory work for the adoption of delegated acts, including at expert level. [deletion arising from the adoption of am. 3]~~

~~(5) The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.~~ [Am. 4]

(6) In order to ensure uniform conditions for the implementation of the provisions of Regulation (EC) No 1100/2007 concerning the approval of Eel Management Plans by the Commission on the basis of *the best and most recent* technical and scientific ~~data~~ *information available*, implementing powers should be conferred upon the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹. [Am. 5]

(6a) *ICES should provide new and more comprehensive advice on the status of eel stocks in 2013. In preparing such advice, ICES should look at all the causes of reduction in the eel stocks, including in relation to spawning grounds. In the event that ICES confirms that the status of the eel stock remains critical, the Commission should as soon as possible submit a proposal for a new regulation on the recovery of the stock of European eel. That regulation should also cover long-term solutions, such as ways to unblock migratory pathways.* [Am. 6]

(7) The Commission will not be in a position to report to the European Parliament and the Council on the measures concerning restocking, including the evolution of market prices

¹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

by 1 July 2011, due to late transmission by some Member States of the relevant information. The deadline for this report should therefore be postponed to 31 December 2012.

(7a) *It is important that the Commission penalise Member States which have not forwarded or analysed all the data available to them in order to enable an exhaustive and scientifically sound inventory of the situation regarding European eel to be drawn up.*
[Am. 7]

(8) The provision of Regulation (EC) No 1100/2007 concerning the power to adopt alternative measures for the achievement of escapement targets confers the power to amend this non-essential element of that Regulation on the Council. As such decision making procedure is no longer possible under the TFEU, the provision concerned should be deleted.

(9) It was established by Commission Decision 2008/292/EC¹ that the Black Sea and the river systems connected to it did not constitute a natural eel habitat for European eel for the purposes of Regulation (EC) No 1100/2007. Therefore Article 1(2) of that Regulation has become obsolete and should be deleted.

(10) Commission Decision 2009/310/EC² approved requests by Cyprus, Malta, Austria, Romania and Slovakia to be exempted from the from the obligation to prepare an Eel Management Plan. There are no pending requests for exemption from that obligation. Therefore Article 3 of Regulation (EC) No 1100/2007 has become obsolete and should be deleted.

(11) Regulation (EC) No 1100/2007 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1100/2007 is amended as follows:

(1) In Article 1, paragraph 2 is deleted.

¹ Commission Decision 2008/292/EC of 4 April 2008 establishing that the Black Sea and the river systems connected to it do not constitute a natural habitat for European eel for the purposes of Council Regulation (EC) No 1100/2007 (OJ L 98, 10.4.2008, p. 14).

² Commission Decision 2009/310/EC of 2 April 2009 approving requests by Cyprus, Malta, Austria, Romania and Slovakia for exemption from the obligation to prepare an Eel Management Plan in accordance with Council Regulation (EC) No 1100/2007 (OJ L 91, 3.4.2009, p. 23).

(1a) *In Article 2, paragraph 1 is replaced by the following:*

“1. Member States shall identify and define the individual river basins lying within their national territory that constitute natural habitats for the European eel (eel river basins), which may include maritime waters.”

[Am. 9]

(1b) *In Article 2, paragraph 10 is replaced by the following:*

“10. In the Eel Management Plan, each Member State shall implement as soon as possible appropriate measures to reduce the mortality of eel caused by factors outside the fishery, including hydroelectric turbines and pumps. Further measures shall be taken where necessary to reduce mortality caused by other factors in order to meet the targets of the Plan.”

[Am. 10]

(2) Article 3 is deleted.

(3) In Article 5, paragraph 1 is replaced by the following:

"1. The Eel management plans shall be approved by the Commission by means of implementing acts adopted in accordance with the examination procedure referred to in Article 12b(2)."

(3a) *In Article 5, paragraph 4 is replaced by the following:*

"4. A Member State which has submitted an Eel Management Plan to the Commission for approval not later than 31 December 2008, which cannot be approved by the Commission in accordance with paragraph 1 or which does not comply with the reporting and evaluation conditions set out in Article 9, shall either reduce fishing effort by at least 50 % relative to the average effort deployed from 2004 to 2006 or reduce fishing effort to ensure a reduction in eel catches by at least 50 % relative to the average catch from 2004 to 2006, either by shortening the fishing season for eel or by other means. This reduction shall be implemented within three months of the decision not to approve the plan or within three months of failure to meet a reporting deadline."

[Am. 11]

(3b) *In Article 5, the following paragraph is added:*

"7. Starting on 1 January 2014, all Eel Management Plans shall be revised and updated every two years, taking into consideration the latest scientific advice."

[Am. 12]

(4) In Article 7, paragraphs 6 and 7 are replaced by the following:

"6. In the event of a significant decline of average market prices for eels used for restocking, as compared to those of eels used for other purposes, the Member State concerned shall inform the Commission. The Commission, by means of delegated acts adopted in accordance with Article 12a and in order to address the situation, may temporarily reduce the percentages of eels used for restocking as referred to in paragraph 2 where the Eel Management Plan complies with Article 2(4).

7. The Commission shall, not later than 31 December ~~2012~~ 2013, report to the European Parliament and the Council and evaluate the measures concerning restocking, including taking into account the latest scientific advice on the conditions in which restocking is likely to contribute to an increase of the spawning stock biomass. In such report, the Commission shall review the evolution of market prices."

[Am. 13]

(4a) *In Article 7, paragraph 8 is replaced by the following:*

"8. Restocking shall be deemed to be a conservation measure for the purposes of Article 38(2) of Regulation (EU) No ... [EMFF], provided that:

- it is part of an Eel Management Plan established in accordance with Article 2,*
- it concerns eels caught and managed using methods and equipment that guarantee the lowest possible mortality during catch, storage, transport and breeding,*
- it takes place in areas affording a high probability of survival and migration,*
- it contributes to the achievement of the 40 % target level of escapement as referred to in Article 2(4), and*

- *the eels are quarantined in order to prevent the spread of any diseases or parasites."*

[Am. 14]

- (5) ~~In Article 9, paragraph 3 is deleted~~ *replaced by the following:*

"Article 9

Reporting and evaluation

1. Member States shall collect research data in order to quantify the impact of measures taken on the eel stock, find mitigation measures and recommend management targets. Member States shall report to the Commission initially every third year, with the first report to be presented by 30 June 2012 and shall make the information available to designated scientific bodies. Thereafter, the frequency of reporting shall increase to once every two years, after the first tri-annual report has been submitted. Reports shall outline monitoring, implementation, effectiveness and outcome, and in particular shall provide the best available estimates of:

- (a) for each Member State, the proportion of the silver eel biomass that escapes to the sea to spawn, or the proportion of the silver eel biomass leaving the territory of that Member State as part of a seaward migration to spawn, relative to the target level of escapement set out in Article 2(4);*
- (b) the level of fishing effort that catches eel each year, and the reduction effected in accordance with Article 4(2) and Article 5(4);*
- (c) the level of mortality factors outside the fishery, and the reduction effected in accordance with Article 2(10);*
- (d) the amount of eel of less than 12 cm in length caught and the proportions of this utilised for different purposes;*
- (e) the survival rate of restocked eels, whether during fishing, transport, restocking or escapement to the Sargasso sea to spawn;*
- (f) the identification, on a voluntary basis, of the spawning grounds of the eels caught.*

2. The Commission shall present to the Parliament and the Council, by 31 October 2013, a report consisting of a statistical and scientific evaluation of the results of the implementation of the eel management plans, along with an opinion from the STECF. Based on the findings of that report, the Commission may submit proposals to broaden the scope of the Regulation to include eel mortality factors other than fishery.

3. The Commission shall, no later than 31 December 2013, present an evaluation of Union and international trade in European eels, that focuses, in particular, on compliance with the obligations of the Union under CITES, and an estimation of illegal trade in European eels in Member States. Such report shall identify inconsistencies in the different data sets available and suggest measures to improve monitoring of trade, including a modification of the existing custom codes to allow for more effective monitoring."

[Am. 15]

(5a) *The following article is inserted:*

"Article 9a

Follow-up measures

Taking into consideration the findings in the reports referred to in Article 7(7) and Article 9(2) and (3), as well as any new and more comprehensive advice provided by ICES on the status of the European eel stock in 2013, the Commission shall, no later than 31 March 2014, present a new legislative proposal to the Parliament and to the Council aimed at achieving, with high probability, the recovery of the stock of European eel. In doing so, the Commission may consider ways of broadening the scope of this Regulation to include mortality caused by factors outside the fisheries."

[Am. 16]

(6) The following articles are inserted:

"Article 12a

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The ~~delegation of powers~~ ***power to adopt delegated acts*** referred to in Article 7(6) shall be conferred ***on the Commission*** for an ~~indefinite~~ ***a period of time three years starting from ...****. ***The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the three-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.***

[Am. 17]

3. The delegation of powers referred to in Article 7(6) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 7(6) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council.

Article 12b

Committee procedure

1. The Commission shall be assisted by the Committee for Fisheries and aquaculture established by Article 30 of Regulation (EC) No 2371/2002. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council*.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

* ***Date of entry into force of this Regulation.***

* Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13)."

Article 2

This Regulation shall enter into force on the 20th day following that of its publications 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 ,

For the European Parliament
The President

For the Council
The President