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# **DRAFT REPORT**

How to make fisheries controls in Europe uniform  
(2015/2093(INI))

Committee on Fisheries

Rapporteur: Isabelle Thomas

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### **How to make fisheries controls in Europe uniform (2015/2093(INI))**

*The European Parliament,*

- having regard to the Treaty on the Functioning of the European Union, and in particular Article 43 thereof,
  - having regard to Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy,
  - having regard to Regulation (EU) No 1380/2013 on the Common Fisheries Policy, and in particular Articles 15 and 36 thereof,
  - having regard to Council Regulation (EC) No 768/2005 of 26 April 2005 establishing a Community Fisheries Control Agency,
  - having regard to Council Regulation (EC) No 1010/2009 laying down detailed rules for the implementation of Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing,
  - having regard to Regulation (EU) No 2015/812 as regards the landing obligation, and in particular Articles 7 and 9 thereof,
  - having regard to Implementing Regulation (EU) No 404/2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy,
  - having regard to the resolution of the European Parliament of 5 February 2014 on the proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy<sup>1</sup>,
  - having regard to Rule 52 of its Rules of Procedure,
  - having regard to the report of the Committee on Fisheries (A8-0000/2016),
- A. whereas the scope of Council Regulation (EC) No 1224/2009 establishing a Community control system is the European Union;
- B. whereas there is real inequity or inequity is felt by fishermen as regards the implementation of fisheries control in Europe;

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<sup>1</sup> Texts adopted, P7\_TA(2014)0083.

- C. whereas substantial differences exist in the application of European regulations in Member States, particularly those induced by the ‘control’ regulation, and whereas each Member State has different administrative and judicial structures;
- D. whereas the European Fisheries Control Agency (EFCA) plays an effective role in the uniform implementation of the control system;
- E. whereas the European Maritime and Fisheries Fund (EMFF) can contribute to the improvement and modernisation of fisheries control, particularly through its budget headings 11-06-62-02 (control and application of the common fisheries policy (CFP) and the Integrated Maritime Policy (IMP)) and 11-06-64 (EFCA);

### **I - Disincentives for uniformity**

1. Underlines the diverse fields of application of the controls and the disparity between different inspection sites, with some Member States organising control from gear to plate and others controlling only certain links in the chain and excluding aspects relating to transport, for example;
2. Notes the diversity in the organisation of controls, with some Member States splitting them up between different administrations and others carrying them out under the auspices of a single body, and also notes the diversity of instruments, tools and financial resources used to effect such controls;
3. Notes a difference in approach between controls based on a calculation of risk and random checks;
4. Recalls that most random checks are performed at the time of landing while inspections at sea reveal an apparently higher rate of infraction than those conducted on land, since they are based on risk;
5. Notes that Member States transpose rules into national law differently because of the large number of optional provisions in Council Regulation (EC) No 1224/2009; stresses the non-enforceability of some of its provisions in practice, either owing to the poor adaptability of the regulations to reality or because of contradictions such as Article 17 of this Regulation which is open to several different interpretations by inspectors;
6. Notes that the level of infraction differs from one Member State to another, and that for the same infraction the sanction may be either an administrative or penal one; contends that the points-based system could be a European instrument which would serve to impose sanctions for serious infractions, but that without uniformity would aggravate an already inequitable situation;
7. Recalls that the EFCA ensures the application of common control, inspection and surveillance standards and facilitates operational cooperation between Member States through joint deployment plans;
8. Considers that the implementation by the EFCA of a ‘core curriculum’ for the training of fisheries inspectors is one starting point for the standardisation of inspector training and control procedures; notes that Member States do not have, unless it is voluntarily

so, the same training standards, which means that the content of qualifications, recruitment and objectives are different;

9. Notes that fishermen are trained and informed differently and that no tool simplifying or granting easier access to the 'control' regulation has been put in place; is of the view that this situation is a disincentive to the uniform application of this legislation;
10. Stresses that the use of new technologies is essential to improving maritime surveillance; regrets the incompatibility of certain instruments used by Member States as well as the only partial sharing of databases relating to control and the resultant loss of efficiency;
11. Stresses the role of the EMFF, particularly through its budget devoted to the control of CFP objectives which amounts to EUR 580 million for the period 2014-2020;

## **II - Proposals for improvement**

12. Is in favour of the simplification of Union legislation with a view to achieving 'better lawmaking', in particular through the revision of Council Regulation (EC) No 1224/2009, scheduled for 2017;
13. Considers that the Commission should attend to uniform transposition and verify the state of implementation of existing legislation; believes furthermore that control procedures should be transparent and standardised;
14. Supports the strengthening of cooperation between Member States through exchanges of inspectors and the exchange of control methods, data and risk analysis;
15. Calls for the implementation by the EFCA of a European training course for inspectors;
16. Proposes the improvement of training and information for fishermen, both of which could be incorporated into their professional organisations, with a view to improving their understanding of the purpose and importance of the regulations and thus inculcate a culture of respect for them; recommends in this regard effective consultations with the advisory committees; proposes to create online databases making the regulations accessible for all to read; is of the opinion that the EMFF could contribute to these measures;
17. Stresses the necessity to strengthen the role of the EFCA, particularly its budget, competences and human resources; suggests revising the conditions of intervention referred to in Articles 94 and 95 of Council Regulation (EC) No 1224/2009 and to give it in particular the right to intervene in respect of all species which have not reached the maximum sustainable yield (MSY);
18. Suggests that at least one representative of the European Parliament be included on the Management Board of the Agency, on which there are already six representatives from the Commission and one from each Member State;
19. Recommends expanding the controls to cover the entire chain of production and assigning responsibilities for control at sea to a single administrative body in order to

avoid an overlapping of controls which causes unnecessary pressure;

20. Is of the view that controls based on risk assessment should be based on transparent criteria defined at European level;
21. Calls for a standardisation of sanctions and prefers economic rather than penal sanctions, but also recalls the need to introduce incentives for fishermen;
22. Is of the view that the capacity of actors to invest in modern technologies compatible with each other will make controls more efficient;
23. Recommends that equivalent controls be applied to imported products, to shore fishing and recreational fishing, as well as to the EU fleet fishing in non-EU waters and to non-EU countries' fleets fishing in EU waters; proposes that data exchange be made mandatory in connection with illegal, unreported and unregulated fishing (IUU);
24. Asserts that the available budgetary resources, particularly under the EMFF, should be consistent with the objectives of controls;
25. Requests the development of a data transfer and analysis system which is compatible throughout the Union; further requests that it falls to the Commission to set the framework for the exchange of data and information;
26. Instructs its President to forward this resolution to the Council and the Commission.

## **EXPLANATORY STATEMENT**

Fishermen are often heard complaining that fisheries control is much stricter for them than for their neighbours, whether the neighbour is in another fishery or another Member State. Fishermen also say that their profession is more controlled than any other. This feeling of injustice poses a difficult question: that of the uniform application of the regulations, and therefore their effectiveness. If it is indeed questionable whether the regulations are enforced with uniform rigour, it is worrying that we could find ourselves in a situation where the rules are no longer respected on the grounds that they are not the same for everybody.

A few months before the revision of the Regulation on fisheries control, which one could have hoped for after the reform of the Common Fisheries Policy (CFP), and the introduction of the landing obligation, it is useful that the Committee on Fisheries is taking up this issue. The objective is twofold: identifying the shortcomings in enforcing the rules which lead to this sense of inequity and proposing solutions to improve the standardisation of controls under the common fisheries policy, which is, nevertheless, one of the most integrated policies in Europe.

### **I. Approach followed by Rapporteur**

The rapporteur has relied on a number of trips to conduct meetings and find out about the different realities of fisheries control and has used these various visits (to Vigo in Spain, where the European Fisheries Control Agency is located; Kiel in Germany, Genoa in Italy, Ostend in Belgium, Lorient and Etel in Brittany and Boulogne-sur-Mer in the north of France) to lend substance to the report.

During the course of these visits but in Brussels too, the rapporteur was able to communicate with numerous fishermen, representatives of the European Fisheries Control Agency, as well as national and regional inspectors.

The rapporteur also initiated a hearing with the Committee on Fisheries to which the Director of the European Fisheries Control Agency as well as those responsible for fisheries control from several Member States were invited: France, Germany, Ireland, Italy and Spain.

### **II. Rapporteur's main conclusions**

This report has enabled a number of findings to be addressed and a number of recommendations to be made.

#### **1. Findings on disincentives for uniformity**

##### **- Scope**

As a result of various visits and meetings, the rapporteur was better able to appreciate the great diversity in the scope of control, procedures and strategies. Thus, certain Member States organise control from gear to plate through a single controlling body, while elsewhere, there are several bodies, and yet others concentrate on only some links in the seafood supply chain.

## **- Training**

Each Member State has put in place its own training courses for fisheries inspectors, training standards, required knowledge and recruitment methods.

Training for fishermen is disparate, moreover, and the subjects of control and sanctions do not seem to be part of the knowledge required by fishermen.

## **- Control procedure and methods**

Each Member State uses different control procedures. While a standardised form exists on which to note infractions on board a vessel, the procedures of control vary. As such, there is no sequential processing imposed for control procedures, for instance. Any contradictions or unenforceable regulations are simply left to the discretion of the inspectors. And lastly, the methods of control and the tools used are not necessarily the same.

It is likewise noted that Member States and even regions may transpose the regulations into national law differently because of the large number of optional provisions in Council Regulation (EC) No 1224/2009. The non-enforceability in practice of some of the provisions of the Regulation has also been raised on numerous occasions, whether owing to the poor adaptability of the regulations to reality or because of contradictions such as in Article 17 of Council Regulation (EC) No 1224/2009, open to subjective interpretation by inspectors.

Furthermore, the method of calculating risks is sometimes very subjective and not particularly transparent, possibly giving rise to questioning on the part of professionals as to the reasons for repetitious inspections.

Finally, the European Fisheries Control Agency carries out joint deployment plans which enable actions between Member States to be coordinated. Nowadays, the Agency's mandate to carry out joint projects is restricted to the very limiting one which is granted to it by Member States under the provisions of Articles 94 and 95 of Council Regulation (EC) No 1224/2009. That aside, the Agency's budget is too weak, and it should be noted that the CFP and the omnibus Regulation were adopted without allocating a corresponding budget to the Fisheries Control Agency.

## **- Sanctions**

Court proceedings and sanctions differ throughout the European Union: for the same infraction, the sanction may be either administrative or penal. It should be noted that in Member States where the sanction is penal, the appearance in court of fishermen together with individuals accused of assault seems inappropriate and paradoxical, because this situation contributes to very low penalties.

The general view is that economic sanctions, such as days at sea restrictions, are the most effective.

The points-based system introduced in the 'control' regulation of 2009 was an attempt to standardise economic sanctions imposed for serious infractions at European level. Its implementation is, however, devalued by the different interpretations by Member States, which creates a distinct lack of professional support, made worse by the transferability of the



penalty to the vessel and not to individuals, a new legal scenario inconsistent with the Charter of Fundamental Rights of the European Union. The provisions introduced in the EMFF likewise enable recourse to European sanctions.

#### **- Instruments (technologies and tools)**

The instruments, tools and financial resources used to effect controls also vary from one Member State to another. Unfortunately, this incompatibility between some instruments and technologies used by the Member States results in a loss of effectiveness. The example of the diverse technologies used for logbooks raises the issue of the use of competitive tendering at European level. Similarly, it is noted that certain technologies used are becoming dated and are inefficient, something which is all the more deplorable given the lack of funds allocated to modernisation of control technologies.

#### **- Data collection**

Databases used by Member States are not always shared, yet are essential for the evaluation of risks and control strategies. Citing confidentiality of certain data as the reason runs counter to standardisation.

Some administrations have established online databanks which are accessible to all as a means to index all catch data, equipment used, and commodity prices. This practice has the dual advantage of making data available whenever required and supporting control efforts.

## **2. Report proposals**

#### **- Harmonisation of the scope**

Existing Community legislation should be simplified, primarily through the revision of Council Regulation (EC) No 1224/2009 scheduled for 2017. The Regulation as it stands is a veritable Russian doll; in order to understand what a long-term plan means, for example, one has to piece together dozens of articles. Moreover, the use of the conditional should be proscribed.

#### **- Training**

There seems to be no escape from implementing a European training programme for inspectors and drafting a single set of standards on matters of control. Training for fishermen should also be strengthened. Such training could be promoted through and incorporated into their professional organisations, with a view to improving their understanding of the purpose and importance of the regulations and of controls and thus inculcate a culture of respect for them. The creation of online databases making the regulations accessible for all to read seems equally urgent, and although Council Regulation (EC) No 1224/2009 stipulates the creation of public websites, they do not exist everywhere.

Finally, consultations with advisory committees currently exist on paper but remain ineffective, marked notably by the very short periods within which committees have to respond to consultations. It is important that these committees are completely involved in the decision-making process, since this would guarantee acceptance of the regulations and their relevance.

## **- Procedures and methodologies**

Steps should be taken to standardise procedures across Europe and strengthen the role of the EFCA, particularly as regards its resources and scope. Today under its guardianship, real progress can be seen where it has intervened through joint deployment plans. It would therefore be useful to let it intervene where it deems it most appropriate, namely at all fisheries whose catches concern species below the maximum sustainable yield (MSY). Given the strong strategic competence of its Management Board, it is incomprehensible that the European Parliament is not represented, and it would be appropriate to include it.

It is equally important that control procedures are transparent and standardised. To this end, controls based on risk assessment should be objective and assessed in a transparent manner, and the risk criteria developed at European level.

Finally, different controlling bodies should coordinate among themselves in order to avoid a competitive situation and to streamline operations.

## **- Sanctions**

It is imperative that sanctions for the same infraction are the same for everybody and that incentives are introduced. The creation of a function of a judge specialising in maritime matters in each Member State would be a first step in this regard.

## **- Modernisation**

The controls will become more effective as the actors invest in modern technologies compatible with each other. Thus satellite tracking of vessels, for example, also makes it possible to identify infractions on land and focus on the interventions required.

In this regard, available budgetary resources, primarily through the EMFF, must be consistent with the objectives of control and enable research and innovation to be encouraged. Using the resources of the EMFF would be a way for control policy as a whole to be updated. Unfortunately, the EMFF's current level of funding is insufficient.

## **- Data**

Just as in legislative work, data are of utmost importance for effective control. Data make it possible for strategies to be defined, efficiencies optimised, and fisheries, vessels and the highest risk practices to be targeted more precisely. It is therefore necessary for Member States to gather data which is compatible and ensure their transfer to land.

## **III. Conclusion**

In concluding this report and summarising the requirements for uniformity, the rapporteur feels compelled to put down in writing what one fisherman said: 'The fleet can absorb more restrictive regulations, but it cannot be that these are not the same for everyone.'