**REPORT**


(COM(2013)0009 – C7-0019/2013 – 2013/0007(COD))

Committee on Fisheries

Rapporteur: Isabelle Thomas
Symbols for procedures

* Consultation procedure
*** Consent procedure
***I Ordinary legislative procedure (first reading)
***II Ordinary legislative procedure (second reading)
***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in bold italics. Highlighting in normal italics is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in bold. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].
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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION


(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2013)0009),
– 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 (C7-0019/2013),
– 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 17 April 2013¹,
– having regard to Rule 55 of its Rules of Procedure,
– having regard to the report of the Committee on Fisheries (A7-0468/2013),

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.

Amendment 1

Proposal for a regulation
Recital 3 – indent 1

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
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<td>the exemption of certain categories of fishing vessels from the obligation of a</td>
<td></td>
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¹ OJ C 198, 10.7.2013, p. 71.
prior notification;

Amendment 2

Proposal for a regulation
Recital 4

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tr>
<td>(4) It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. 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.</td>
<td>(4) It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, such as with Regional Advisory Councils. 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.</td>
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Amendment 3

Proposal for a regulation
Recital 5 – indent 2 a (new)

<table>
<thead>
<tr>
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<th>Amendment</th>
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<tbody>
<tr>
<td>- marking of gear;</td>
<td></td>
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</table>

Amendment 4

Proposal for a regulation
Recital 5 – indent 6 a (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<td>- prior notification;</td>
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Amendment 5
Proposal for a regulation
Recital 8 a (new)

Text proposed by the Commission

(8a) Since this Regulation aims to align Regulation (EC) No 1224/2009 with the Lisbon Treaty, it is important that the Commission, in its future revision of the that Regulation, examines:

- the European Parliament's demands regarding the distinction between passive and static gear,
- the relevance of tolerance levels of logbooks fixed at 10%,
- the conditions for notification of entry into ports,
- possible derogations to stowage conditions,
- the administrative burden of weighing constraints,
- the conditions for the attribution and transfer of infraction points, and
- the publicising of data linked to infractions.

Amendment 6
Proposal for a regulation
Article 1 – point 3
Regulation (EC) No 1224/2009
Article 7 – paragraph 6

Text proposed by the Commission

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 119a concerning rules on the applicability of the fishing authorisation to small vessels.

Amendment

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 119a concerning the conditions for the exemption of small vessels from the obligation to hold fishing authorisations.
Justification

This is to clarify the paragraph while maintaining the meaning of the original text.

Amendment 7

Proposal for a regulation
Article 1 – paragraph 1 – point 4
Regulation (EC) No 1224/2009
Article 8 – paragraph 2

Text proposed by the Commission

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 119a concerning marking and identification of fishing vessels, gear and crafts, as regards:
   (a) documents to be carried on board;
   (b) rules for the marking of crafts;
   (c) rules for passive gear and beamtrawls;
   (d) labels;
   (e) buoys;
   (f) cords.

Amendment

2. The Commission may adopt implementing acts concerning marking and identification of fishing vessels, gear and crafts, as regards:
   (a) documents to be carried on board;
   (b) rules for the marking of crafts;
   (c) passive gear and beamtrawls;
   (d) labels;
   (e) buoys;
   (f) cords.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 119(2),

Justification

Equal treatment needs to be guaranteed with regard to these rules, and implementing acts are therefore necessary.

Amendment 8

Proposal for a regulation
Article 1 – paragraph 1 – point 5 – point a
Regulation (EC) No 1224/2009
Article 9 – paragraph 10
10. The Commission shall be empowered to adopt delegated acts in accordance with Article 119a concerning:

(a) the requirements of satellite-tracking devices on fishing vessels;
(b) the characteristics of satellite-tracking devices;
(c) the responsibilities of the masters concerning the satellite-tracking devices;
(d) the control measures to be adopted by flag Member State;
(e) the frequency of data transmission;
(f) the monitoring of entry into and exit from specific area;
(g) the transmission of data to the coastal Member State;
(h) the measures to be taken in case of a technical failure or non-functioning of the satellite-tracking device;
(i) the non-receipt of data;
(j) the monitoring and recording of the fishing activities;
(k) the access to data by the Commission.

Amendment

10. The Commission may adopt implementing acts concerning:

(a) the requirements of satellite-tracking devices on fishing vessels;
(b) the characteristics of satellite-tracking devices;
(c) the responsibilities of the masters concerning the satellite-tracking devices;
(d) the control measures to be adopted by flag Member State;
(e) the frequency of data transmission;
(f) the monitoring of entry into and exit from specific area;
(g) the transmission of data to the coastal Member State;
(h) the measures to be taken in case of a technical failure or non-functioning of the satellite-tracking device;
(i) the non-receipt of data;
(j) the monitoring and recording of the fishing activities;
(k) the access to data by the Commission.

Those implementing acts shall be adopted in accordance with the examination procedures referred to in Article 119(2)."

Justification

Consistent decision-making needs to be ensured, and these measures should therefore be adopted by means of implementing acts.

Amendment 9

Proposal for a regulation
Article 1 – point 6
Regulation (EC) No 1224/2009
Article 13 – paragraph 2
2. The introduction of other new fisheries control techniques may be decided in accordance with the Treaty when these technologies lead to improved compliance with the rules of the common fisheries policy in a cost effective way.

Amendment

"6. The Commission shall be empowered to adopt delegated acts in accordance with Article 119a, to exempt certain categories of fishing vessels from the obligation set out in paragraph 1 for a limited period, which may be renewed, or make provision for another notification period taking into account, the type of fisheries products and the distance between the fishing grounds, landing places and ports where the vessels in question are registered."

Justification

*Derogations should be governed by consistent criteria so as to prevent any possible discrimination, and implementing acts are therefore necessary.*

Amendment 11

Proposal for a regulation
Article 1 – paragraph 1 – point 14 – point b
Regulation (EC) No 1224/2009
Article 24 – paragraph 8

Text proposed by the Commission
8. The Commission shall be empowered to adopt delegated acts in accordance with Article 119a concerning:
(a) the provisions applicable in the event of technical failure or non-functioning of electronic recording and reporting systems;
(b) measures to be taken in case of non-receipt of data;
(c) the access of data and measures to be taken in case of data access failure.

Amendment
8. The Commission may adopt implementing acts concerning:
(a) the provisions applicable in the event of technical failure or non-functioning of electronic recording and reporting systems;
(b) measures to be taken in case of non-receipt of data;
(c) the access of data and measures to be taken in case of data access failure.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 119(2)."

Amendment 12
Proposal for a regulation
Article 1 – point 30
Regulation (EC) No 1224/2009
Article 52 – paragraph 3 – introductory part

Text proposed by the Commission
3. The Commission shall be empowered to adopt delegated acts in accordance with Article 119a concerning the modification of the distances referred to in paragraphs 1 and 2, taking into account the following elements:

Amendment
3. The Commission shall be empowered to adopt, on its own initiative or at the request of the Member State concerned, delegated acts in accordance with Article 119a concerning the modification of the distances referred to in paragraphs 1 and 2, taking into account the following elements:

Justification
Member States may ask the Commission to change the distances referred to in paragraph 1 of the text currently in force. It does not seem necessary to remove this option.
Amendment 13

Proposal for a regulation
Article 1 – point 32
Regulation (EC) No 1224/2009
Article 55 – paragraph 4

Text proposed by the Commission

4. On the basis of a scientific evaluation of the biological impact of recreational fisheries as referred to in paragraph 3, where a recreational fishery is found to have a significant impact, management measures such as fishing authorisations and catch declarations may be adopted in accordance with the Treaty.

Amendment

4. The Scientific, Technical and Economic Committee for Fisheries (STECF) shall evaluate the biological impact of recreational fisheries as referred to in paragraph 3. Where a recreational fishery is found to have a significant impact, management measures such as fishing authorisations and catch declarations may be adopted in accordance with the Treaty.

Justification

Reinstates the more specific reference to the STECF, which was contained in the original text.

Amendment 14

Proposal for a regulation
Article 1 – point 33 – point b
Regulation (EC) No 1224/2009
Article 58 – paragraph 10 – point g

Text proposed by the Commission

(g) the information on fisheries and aquaculture products available to the consumer.

Amendment

(g) the information on fisheries and aquaculture products available to the consumer. deleted

Justification

In line with the conclusion of the debates which led to the adoption of the CMO Regulation (2011/0194 COD), it is not appropriate to give the Commission delegated powers regarding the information made available to consumers.
Amendment 15

Proposal for a regulation
Article 1 – point 66
Regulation (EC) No 1224/2009
Article 119 a – paragraph 2

Text proposed by the Commission

2. The delegations of powers referred to in Articles 7(6), 8(2), 9(10), 14(11), 15(9), 17(6), 21(6), 22(7), 24(8), 49(2), 51(1), 52(3), 58(10), 58(11), 59(5), 60(7), 65(1), 65(2), 73(9), 74(6), 75(2), 92(5a), and 107(4) shall be conferred for an indeterminate period of time.

Amendment

2. The power to adopt delegated acts referred to in Articles 7(6), 14(11), 15(9), 21(6), 22(7), 49(2), 51(1), 52(3), 58(10), 58(11), 59(5), 60(7), 65(1), 65(2), 73(9), 74(6), 75(2), 92(5a) and 107(4) shall be conferred on the Commission for a period of three years 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. In that report, the Commission shall evaluate the effectiveness of the acts adopted in the light of the objectives of this Regulation and the Common Fisheries Policy, to ensure, in particular, that the control is carried out fairly, for example by using comparative indicators.

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.

* OJ: please insert the date of the entry into force of this Regulation.
EXPLANATORY STATEMENT

The Commission proposal

As a consequence of the entry into force of the Lisbon Treaty on 1 December 2009 and the redistribution of powers it introduces, an alignment of EU legislation is needed. This involves the reclassification of the powers conferred on the Commission under the old comitology procedure.

Although it may appear to be a legal issue, the dividing line between an implementing act (Article 290(1) TFEU), a delegated act (Article 291 TFEU) and co-decision is very vague in some cases. Indeed, while the criteria for choosing between these instruments are set out in the Treaty, in practice there is a substantial grey area that means that a political choice needs to be made and serious consideration needs to be given to the powers that should be ceded to the Commission. A form of hierarchy can be drawn between the level where the emphasis is more on implementation and the most overtly political level. The implementing act is the most technical act, the delegated act leaves the Commission some room for manoeuvre (hence ex-post controls), while co-decision is the most political procedure.

It should be noted that in no case does this alignment amount to the ceding of Parliament’s co-decision powers. On the contrary, it is about giving it new powers of ex-post control when the delegated acts procedure is chosen, or even giving it new co-decision powers. At this stage, where Parliament is required to distribute powers to the Commission alone, or to the Commission together with expertise from the Member States, in-depth consideration needs to be given to the governance of the European institutions.

In addition, while context and urgency may require a high degree of responsiveness and therefore justify delegating to the Commission a power relating to non-essential elements, a delegated act must never alter the spirit of the legislative act, which is something that remains a matter for co-decision. This logic calls for even more vigilance on the part of the Council and Parliament, which will have to limit the cession of a potentially significant power through the efficient, regular and effective exercise of control.

The rapporteur’s view

On the whole, the rapporteur agrees with the Commission proposals. It should be noted, however, that the rapporteur assessed these proposals in the context of delegated powers being subject to ex post control by Parliament and the Council, and that the choices made in this report would be different if control were not effective and efficient.

To guide the Commission in its decisions, the report sets out a number of principles which must be complied with and in the light of which Parliament will carry out its control of the acts provided for in the revised Regulation No 1224/2009. Thus when adopting acts the Commission will be required to ensure the safety of seamen, choose the least burdensome scenario in terms of procedures and the most efficient in economic terms, and respect the
three pillars of sustainable development.

Furthermore, in order to limit the powers granted to the Commission, the rapporteur proposes conferring the delegation of powers for a period of three years, after which the Commission would have to submit a report on acts adopted during the period and evaluate their effectiveness in the light of the objectives of the Regulation and of the CFP, as a means of ensuring that the control is carried out fairly, for example with the aid of comparative indicators in the Member States.

The report also draws attention to the fact that some elements of the Regulation currently in force do not seem to be consistent with the Charter of Fundamental Rights, and that in certain cases the provisions need to be brought into line.

It is also important to point out that the rapporteur has sought to follow the Lisbonisation process by focusing solely on alignments needed to bring the text into line with the Treaties, while ensuring effective control by Parliament and proposing a reflection on the powers granted to the Commission.

Regulation No 1224/2009 contains a number of elements which will need to be revised given their impracticability. The requirements in terms of traceability and landing declarations, for example, have a number of undesirable effects which could be avoided by further adapting the articles concerned to the practical day-to-day realities of fishing. These issues should be given consideration, as should the need to bring the control regulation into line with the CFP reform in a subsequent, and urgent, revision.
## PROCEDURE

| Title | Amendment of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy |
| Date submitted to Parliament | 18.1.2013 |
| Committee responsible | PECH |
| Committee(s) asked for opinion(s) | ENVI |
| Not delivering opinions | ENVI |
| Rapporteur(s) | Isabelle Thomas |
| Discussed in committee | 20.3.2013, 11.7.2013, 17.10.2013 |
| Date adopted | 17.12.2013 |
| Result of final vote | +: 13, -: 3, 0: 0 |
| Members present for the final vote | John Stuart Agnew, Carmen Fraga Estévez, Pat the Cope Gallagher, Dolores García-Hierro Caraballo, Marek Józef Gróbarczyk, Isabella Lövin, Gabriel Mato Adrover, Maria do Céu Patrão Neves, Ulrike Rodust, Raúl Romeva i Rueda, Struan Stevenson, Nils Torvalds, Jarosław Leszek Wałęsa |
| Substitute(s) present for the final vote | Jens Nilsson, Antolín Sánchez Presedo |
| Substitute(s) under Rule 187(2) present for the final vote | Andrzej Grzyb |
| Date tabled | 19.12.2013 |