

REFIT Platform Opinion

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REFIT Platform Opinion on the submission by the Finnish Government Stakeholder survey on the control of EU fisheries

The REFIT Platform has considered the submission from the Finnish Government Stakeholder survey on the provisions concerning the control of EU fisheries.

The Stakeholders group recognises the need to ensure a proportionate and effective application of the Fisheries Control Regulation in relation with vessels and in that context, welcomes the evaluation process and the publication of the evaluation Staff Working Document.

The Government group recognises that certain provisions of Regulation No 1224/2009 can create regulatory burden for the fisheries administration as well as for the fishing vessels' operators and other fish market operators.

While a few Member States support the recommendations of the Stakeholder group, most Member States do not wish to pre-empt the discussion on the revision of this Regulation scheduled for the end of 2017 and recommend that the submission, together with the Stakeholder group recommendations, is examined by the Commission during the revision process.

Detailed Opinion

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1. Submission XIV.3.a by the Finnish Government Stakeholder survey

FI authorities have conducted a survey on how EU legislation is perceived amongst public administration, business and stakeholders. Based on the feedback (over 50 organizations), a summary of forty examples of EU legislation rising certain concerns were compiled.

The provisions concerning the control of fishing (1224/2009) are disproportionate for Finnish conditions creating an unnecessary administrative burden on the entire delivery chain. The provisions were drafted with large ocean-going vessels in mind. Now they are applied to minor operators without hardly any exemptions. The goal should be to simplify legislation, apply the principle of proportionality more effectively, increase automation and develop risk-based and consequently more cost-effective compliance monitoring.

2. Policy context

The comments refer to the policy of [control of EU fisheries](#) and in particular to Council Regulation (EC) 1224/2009 (*hereinafter 'the Control Regulation'*).

The evaluation of the Control Regulation has been put in 2015 on the REFIT agenda and it has been recently finalised.

In this frame effectiveness of the provisions for small vessels, and derogations and exemptions provided are in depth investigated.

Finnish authorities provided specific and detailed comments as part of the stakeholder consultations for the above mentioned evaluation. The comments will be taken into consideration in the analysis and in possible proposed way forward.

The results of the evaluation of the Control Regulation was published on 24 April 2017 (COM(2017) 192 final and SWD(2017) 134 final¹).

¹ The accompanying study has also been published in EU Bookshop:

final report: <https://bookshop.europa.eu/en/evaluation-of-the-impact-of-council-regulation-ec-no-1224-2009-of-20-november-2009-establishing-a-community-control-system-for-ensuring-compliance-with-rules-of-the-common-fisheries-policy--pbKL0716172/>;

• executive summary: <https://bookshop.europa.eu/en/evaluation-of-the-impact-of-council-regulation-ec-no-1224-2009-of-20-november-2009-establishing-a-community-control-system-for-ensuring-compliance-with-rules-of-the-common-fisheries-policy--pbKL0716173/>;

• synthesis report: https://bookshop.europa.eu/en/evaluation-of-the-impact-of-council-regulation-ec-no-1224-2009-of-20-november-2009-establishing-a-community-control-system-for-ensuring-compliance-with-rules-of-the-common-fisheries-policy--pbKL0716174

The evaluation highlighted that Member States have generally been compliant with the main obligations set by the Control Regulation, which has helped stepping up a culture of compliance with the Common Fisheries Policy. However, its full implementation lacks behind in many MS, on creating sometimes uneven situations within the EU. In addition, the evaluation concluded that the regulation is not entirely fit for purpose and that is not entirely coherent with the reformed Common Fisheries Policy. Concerning small vessels, the evaluation concluded that current rules are not considered to be fully suitable and that the level playing field is hindered by too many exemptions and derogations.

3. Opinion of the REFIT Platform

3.1 Considerations of the REFIT Platform Stakeholder group

The Stakeholder group recognises the need to ensure proportionate application of the Control Regulation, noting the specific exemptions that already exist for small-scale vessels. At the same time, it recognises that the Control Regulation must effectively ensure that all vessel types are complying with a common set of rules as required to support the implementation of the Common Fisheries Policy.

A key objective of the current Control Regulation is to ensure that the rules underpinning the Commons Fisheries Policy are effectively enforced whilst avoiding any unnecessary administrative burdens. In this context, the stakeholder group notes the special report on the EU fisheries control system issued by the European Court of Auditors in 2007 in which it was noted that *"the procedures for dealing with reported infringements do not support the assertion that every infringement is followed up and still less infringements attract penalties; even when penalties are imposed their deterrent effect is, on the whole, limited."*

Such a situation risks undermining the level playing field and the sustainability of the fisheries regime. Indeed, this was one of the reasons why the new Control Regulation – together with a regulation to prevent, deter and eliminate illegal, unreported and unregulated fishing – was introduced in 2009.

Therefore, the Stakeholder group welcomes the evaluation process and the publication of the evaluation Staff Working Document on 24 April 2017.

3.2 Considerations of the REFIT Platform Government group

11 Member States contributed to the opinion.

Members of the Government group recognise that certain provisions of Regulation No 1224/2009 can create regulatory burden for the fisheries administration as well as for the fishing vessels' operators and other fish market operators.

While a few Member States (2 out of 11) support the recommendations of the Stakeholder group, most Member States do not wish to pre-empt the discussion on the revision of this Regulation scheduled for the end of 2017 and recommend that the submission, together with the Stakeholder group recommendations, is examined by the Commission during the revision process.

Individual contributions from Member States

Member State 1 considers that, as the results of the evaluation have just been published, and that further development/discussion will take place at EU level, it does not want to adopt a recommendation at current stage

Member State 2 supports considerations of the Stakeholder Group.

Member State 3 supports in principle the approach set out in the proposal, but at this stage considers that it is not acceptable to initiate amendments in the implementation of the Regulation (EC) 1224/2009. Taking into account the difficulties in the negotiations, the specifics of the topics and simultaneous social, economic and ecological importance of the issues raised, MS3 thinks that at present, efforts should be directed towards to the effective application of Regulation (EC) 1224/2009 (the Control Regulation) together with Regulation (EC) 1005/2008 on the Prevention, Deterrence and Abolition of Illegal, Unreported and Unregulated Fishing. Any amendments to Regulation (EC) 1224/2009 should be foreseen only after completion of an overall assessment of the effectiveness of control measures in the fisheries sector, to ensure that future changes will not endanger the sustainable use of fishery resources.

Member State 4 considers that there is a need to ensure proportionate application of the Control Regulation depending on the fleet segments. Several years of experience gained by fisheries control authorities in MS4 shows that some of the provisions of the Regulation No 1224/2009 create significant administrative burden for the fisheries administration as well as for the fishing vessels' operators and other fish market operators. However, in MS4's opinion simplification of the legislation proposed by Finland should be preceded by the in depth analysis of the costs and effectiveness of the current provisions concerning fisheries control, taking into account all fishing fleet segments and all fish market operators.

Member State 5 supports the submission and welcomes the publication of the REFIT evaluation of the Regulation (EC) 1244/2009. Furthermore, MS5 encourages the European Commission to take account of the proposal in submission XIV.3.a that legislation should be made simpler, more proportionate and that compliance monitoring is increasingly automated, risk-based and cost-effective in the work following the evaluation.

Member State 6 agrees that there is a need to ensure appropriate application of the Council Regulation (EC) No 1224/2009 and agrees with the fact that in many cases unnecessary administrative burden is created. The rules of the Common Fisheries Policy should be effectively enforced.

Member State 7 partially supports the proposal. MS7's government is aware of the Finnish

concerns and is partly faced with the same problems. However, MS7 sees the need for a unified fisheries control system in all waters of the EU to ensure a level playing field in all fisheries. MS7 does therefore not share the Finnish conclusion that the fisheries control system is not adequate for certain parts of the fleet and prefers to keep a unique basic set of control rules for all fisheries.

Member State 8 does not object this proposal.

Member State 9 does not support the proposal. Although it believes that this proposal is legitimate, it considers it is likely to pre-empt discussions on the revision of this Regulation, which is scheduled for the end of 2017. MS9 believes instead that the Finnish request may be examined during the revision of the Regulation.

Member State 10 agrees that the Commission publishes the assessment of the control regulation (Reg. EC 1224/2009) of the Common Fisheries Policy

Member State 11 agrees with the need to ensure the proportional application of the Control regulation, and some of the comments by the F. Admon to the special report are made in this way.

In one hand, it is essential to ensure a proper follow up of infringements in order to get a common level playing field, and in the other hand it is essential to give flexibility to the measures depending on the kind of fleets or the kind of fisheries we are talking about:

- Flexibility to leave the port when the VMS/ERS is not working when a small scale vessel makes daily fishing trips.
- Flexibility in the 10% of tolerance between logbook and landing declaration in particular cases, or the possibility to declare exactly the number of fish on board (big tunas) instead of the weight.
- Flexibility to the gap of time to make the PNO when the fishing ground is close to the port.