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**REPORT FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN  
PARLIAMENT**

**in respect of the delegation of powers under Article 29(2) of Regulation (EU) 2019/1241  
of the European Parliament and of the Council of 20 June 2019 on the conservation of  
fisheries resources and the protection of marine ecosystems through technical measures**



## 1. Introduction

The Technical Measures Regulation (Regulation (EU) 2019/1241)<sup>1</sup>, entered in force on 14 August 2019, introducing the design of new technical measures for the governance process set out in the Common Fisheries Policy (CFP) Regulation (Regulation (EU) 1380/2013)<sup>2</sup>.

Technical measures support the implementation of the CFP, and as such, should contribute to the objectives set out in Article 2 of the CFP Regulation. The spirit of technical measures is to control the catch that can be taken with a given amount of effort, while minimising the impacts of fishing on the ecosystem and thereby to contribute to the objectives of:

- optimising exploitation patterns;
- ensuring that incidental catches of sensitive marine species are minimised and where possible eliminated;
- ensuring that the negative environmental impacts of fishing on marine habitats are minimised;
- having in place fisheries management measures in order to comply with Directives 92/43/EEC, 2000/60/EC and 2008/56/EC, in particular with a view to achieving good environmental status in line with Article 9(1) of Directive 2008/56/EC and with Directive 2009/147/EC.

The power to adopt delegated acts is conferred on the Commission for a period of 5 years from 14 August 2019 subject to the conditions laid down in Article 29 of the Technical Measures Regulation.

## 2. Legal basis

The Commission is required to prepare a report on the delegation of powers no later than 9 months before the end of the five-year period. As this first report covers the period from 14 August 2019 to 30 June 2023, the deadline for the Commission to prepare it is 13 November 2023.

The delegated powers are automatically extended for five-year periods, unless the European Parliament or the Council opposes such an extension in accordance with Article 46 of the CFP Regulation.

The Technical Measures Regulation empowers the Commission to adopt delegated acts for the following:

- (a) Article 10 (4): to amend the list of prohibited species as set out in Annex I;

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<sup>1</sup> Regulation (EU) 2019/1241 of the European Parliament and of the Council of 20 June 2019 on the conservation of fisheries resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1224/2009 and Regulations (EU) No 1380/2013, (EU) 2016/1139, (EU) 2018/973, (EU) 2019/472 and (EU) 2019/1022 of the European Parliament and of the Council, and repealing Council Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) No 2187/2005.

<sup>2</sup> Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).



- (b) Article 15 (2): to amend the provisions of Annexes V, VI, VII, VIII, IX, X, XI and XIII on:
- a. gear modifications to increase the size and species selectivity (Article 16),
  - b. closed or restricted areas to protect juveniles and spawning aggregations (Article 17),
  - c. minimum conservation reference sizes (Article 18);
- (c) Article 19: for the introduction of real-time closures and moving on provisions;
- (d) Article 20: for the use of innovative fishing gear;
- (e) Article 21: for the introduction of measures to protect sensitive species and habitats;
- (f) Article 23: for the adoption of pilot projects on full documentation of catches and discards;
- (g) Article 27 (7): to further define the term ‘directed fishing’.

### **3. Exercise of the delegation of powers**

#### **3.1. Procedural aspects**

The Commission’s delegated powers, granted under Article 12(2) and Article 15(2) and (3) of the Technical Measures Regulation, are subject to regionalisation provided for under Article 18 of the CFP Regulation. Member States having a direct management interest affected by the measures concerned may agree to submit joint recommendations. When shaping joint recommendations for Commission delegated acts under regionalisation, Member States have to consult the relevant Advisory Councils. If Member States do not agree on joint recommendations or if the joint recommendations are deemed incompatible with the objectives and quantifiable targets of the conservation measures in question, the Commission may submit a proposal for appropriate measures in accordance with the Treaty.

The Technical Measures Regulation sets out the regionalisation process for the first time when adopting technical measures, following the CFP: while setting the baseline standards for each sea basin, *derived from existing technical measures, taking account of STECF (Scientific, Technical and Economic Committee for Fisheries) advice and the opinions of stakeholders. Those standards should consist of baseline mesh sizes for towed gear and static nets, minimum conservation reference sizes, closed or restricted areas, as well as nature conservation measures to mitigate against catches of sensitive species in certain areas and any other existing regionally specific technical measures*<sup>3</sup>.

The aim is to combine flexibility to adapt to regional specificities with the principle that minimum standards of conservation should be kept, i.e. changes to technical measures through regionalisation cannot lead to a deterioration in conservation or selectivity standards. This not only includes the possibility to introduce alternative approaches to regulating selectivity, and how fisheries are defined, but also to amend minimum conservation reference

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<sup>3</sup> See recital (23) of the Technical Measures Regulation.



sizes, to adapt or amend areas and seasonal limits, to promote innovative fishing methods and to incorporate mitigation techniques to minimise the negative impact on the ecosystems.

In line with the requirements, the joint recommendations to modify different provisions of the Technical Measures Regulation have been submitted to the Scientific, Technical and Economic Committee for Fisheries (STECF) established by Commission Decision 2005/629/EC<sup>4</sup> to take into account the best available scientific advice.

Member States also consulted the relevant Advisory Councils when formulating the joint recommendations. Some acts were also discussed during the Commission's regular coordination meetings with all Advisory Councils.

Finally, the draft delegated acts based on the empowerments included in the CFP Regulation have all been submitted to the Expert Group for Fisheries and Aquaculture that was set up to ensure appropriate expert consultation for the preparation of delegated acts. The European Parliament and the European Fisheries Control Agency are invited to the meetings of this Expert Group as observers. The documents relevant to these consultations were submitted simultaneously to the European Parliament and to the Council in line with the Common Understanding on delegated acts. After adoption, the delegated acts were all notified to the European Parliament and to the Council.

### 3.2. List of delegated acts adopted under the Technical Measures Regulation

All delegated acts adopted by the Commission since 25 July 2019 are listed below. They are classified by legal status (in force, adopted not yet in force and repealed or expired). The list was last updated and reflects the state of play on 30 June 2023.

#### **3.2.1. DELEGATED ACTS IN FORCE**

- Commission Delegated Regulation (EU) 2020/2013, as regards technical measures for certain demersal and pelagic fisheries in the North Sea and in the Southwestern Waters<sup>5</sup>
- Commission Delegated Regulation (EU) 2021/1160 as regards the sprat box and the plaice box in the North Sea<sup>6</sup>
- Commission Delegated Regulation (EU) 2021/1473 of 30 June 2021 correcting Delegated Regulation (EU) 2019/2201 as regards certain rules for the implementation of real-time closures for Northern prawn fisheries in the Skagerrak<sup>7</sup>
- Commission Delegated Regulation (EU) 2021/2324 as regards technical measures for certain demersal and pelagic fisheries in the Celtic Sea, the Irish Sea and the West of Scotland<sup>8</sup>
- Commission Delegated Regulation (EU) 2022/199 as regards the use of excluder devices in the North Sea fishery for Norway pout<sup>9</sup>

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<sup>4</sup> Commission Decision 2005/629/EC of 26 August 2005 establishing a Scientific, Technical and Economic Committee for Fisheries (OJ L 225, 31.8.2005, p. 18)

<sup>5</sup> OJ L 415, 10.12.2020, p. 3.

<sup>6</sup> OJ L 250, 15.7.2021, p. 4.

<sup>7</sup> OJ L 325, 15.9.2021, p. 1.

<sup>8</sup> OJ L 465, 29.12.2021, p. 1.



- Commission Delegated Regulation (EU) 2022/200 as regards certain technical measures on mesh sizes and the overall maximum length for certain beam trawls in the North Sea<sup>10</sup>
- Commission Delegated Regulation (EU) 2022/303 as regards measures to reduce incidental catches of the resident population of the Baltic Proper harbour porpoise (*Phocoena phocoena*) in the Baltic Sea<sup>11</sup>
- Commission Delegated Regulation (EU) 2022/826 as regards exemptions from the plaice box<sup>12</sup>
- Commission Delegated Regulation (EU) 2022/1357 as regards king scallops (*Pecten maximus*) in the English Channel<sup>13</sup>
- Commission Delegated Regulation (EU) 2022/2587 as regards the minimum conservation reference size of Venus shells (*Venus* spp.) in certain Italian territorial waters<sup>14</sup>
- Commission Delegated Regulation (EU) 2022/2588 as regards technical measures for certain demersal and pelagic fisheries in the Celtic Sea, the Irish Sea and the West of Scotland<sup>15</sup>
- Commission Delegated Regulation (EU) 2023/56 as regards specific technical measures for red seabream (*Pagellus bogaraveo*) in ICES subareas 6 to 8<sup>16</sup>.

### ***3.2.2. DELEGATED ACT ADOPTED NOT YET IN FORCE***

- Commission Delegated Regulation amending Regulation (EU) 2019/1241 as regards technical measures to reduce by-catches of cod in the Baltic Sea.

### ***3.2.3. DELEGATED ACTS REPEALED OR EXPIRED***

None

## **4. Conclusion**

The Commission considers that it has exercised its delegated powers within the remit of the Technical Measures Regulation.

The Commission invites the European Parliament and the Council to take note of this report.

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<sup>9</sup> OJ L 33, 15.2.2022, p. 1.

<sup>10</sup> OJ L 33, 15.2.2022, p. 4.

<sup>11</sup> OJ L 46, 25.2.2022, p. 67.

<sup>12</sup> OJ L 147, 30.5.2022, p. 22.

<sup>13</sup> OJ L 205, 5.8.2022, p. 4.

<sup>14</sup> OJ L 338, 30.12.2022, p. 40.

<sup>15</sup> OJ L 338, 30.12.2022, p. 44.

<sup>16</sup> OJ L 5, 6.1.2023, p. 1.