Commission Implementing Regulation (EU) 2018/1586 of 22 October 2018 establishing a derogation from Council Regulation (EC) No 1967/2006 as regards the minimum distance from coast, the minimum sea depth and the prohibition to fish above protected habitats for shore seines fishing in territorial waters of Croatia

COMMISSION IMPLEMENTING REGULATION (EU) 2018/1586

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1967/2006 of 21 December 2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea[1], and in particular Article 4(5) and Article 13(5) and (10) thereof,

Whereas:

(1) Article 4(1) of Regulation (EC) No 1967/2006 prohibits fishing with trawl nets, dredges, purse seines, boat seines, shore seines or similar nets above seagrass beds of, in particular, Posidonia oceanica or other marine phanerogams.

(2) At the request of a Member State, the Commission may allow a derogation from the first subparagraph of Article 4(1) of Regulation (EC) No 1967/2006, provided that a number of conditions set out in Article 4(5) are fulfilled.

(3) Article 13(1) of Regulation (EC) No 1967/2006 prohibits the use of towed gears within 3 nautical miles of the coast or within the 50 m isobath where that depth is reached at a shorter distance from the coast.

(4) At the request of a Member State, the Commission may allow a derogation from Articles 13(1) of Regulation (EC) No 1967/2006, provided that a number of conditions set out in Article 13(1) second paragraph, 13(5) and (9) are fulfilled.

(5) On 26 January 2016 the Commission received a request from Croatia for a derogation from the first subparagraph of Article 13(1) of that Regulation, for the use of traditional shore seine of large mesh size ‘šabakun’, fishing for greater amberjack (*Seriola dumerili*), traditional shore seine ‘oližnica’, fishing for sand smelt (*Atherina boyeri*) and traditional shore seines ‘girarica’ and ‘migavica’, fishing for picarels (*Spicara smaris*) within the Croatian territorial waters.

(6) With the same request, Croatia requested for a derogation from the first subparagraph of Article 4(1) of Regulation (EC) No 1967/2006, for the use of traditional shore seines ‘girarica’ and ‘migavica’, fishing for picarels (*Spicara smaris*).

(7) The request concerns fishing activities already authorised by Croatia and covers vessels which have a track record in the fishery of more than five years and operate under the management plan implemented by Croatia by Ministerial Ordinance[(2)] in accordance with Article 19(2) of Regulation (EC) No 1967/2006 on 30 March 2018 ('Croatian management plan').

(8) The Scientific, Technical and Economic Committee for Fisheries (STECF) assessed the derogation requested by Croatia and the related management plan in April and October 2016. STECF highlighted need for clarifications on fishing gears used, bycatches, monitoring and scientific data. Croatia provided adequate clarifications to the Commission and revised accordingly the management plan by introducing additional measures on control, fleet management, data collection and monitoring.

(9) The derogations requested by Croatia comply with the conditions set out in Article 4(5) and Article 13(5) and (9) of Regulation (EC) No 1967/2006.

(10) In particular, there are specific geographical constraints given both the distinct morphological structure of Croatia, comprising of long coastline including numerous islands and the spatial distribution of the target species, which is exclusively limited in certain specific sites and zones in the coastal areas at depths of less than 50 meters. The fishing grounds are therefore limited.

(11) With respect to picarels fishing the request concerns fishing activities by vessels of less than or equal to 12 meters overall length and engine power of less than or equal to 85 kW with bottom towed nets traditionally undertaken on Posidonia beds, in accordance with the first subparagraph of Article 4(5) of Regulation (EC) No 1967/2006. In addition the fishing activity with respect to picarels fishing affect approximately 5 % of the area covered by seagrass beds of Posidonia oceanica within the area covered by the management plan and less than 5 % of seagrass beds in the territorial waters of Croatia, in accordance with the requirements of points (ii) and (iii) of the first subparagraph of Article 4(5) of Regulation (EC) No 1967/2006.

(12) The fishery cannot be undertaken with other gears, since only shore seines have the technical characteristic necessary to carry out this type of fishery.

(13) Moreover, the fishery has no significant impact on the marine environment, as shore seines are very selective gears, they do not touch the seabed and cannot operate above the *Posidonia oceanica* seabed.

(14) The request covers 87 vessels. The derogation requested by Croatia therefore affects a limited number of vessels, compared with the large distribution area of the fleet using these types of gears, representing 1 % of the fleet and 2 % of the gross tonnage (GT).

(15) Those vessels are included on a list communicated to the Commission in accordance with Article 13(9) of Regulation (EC) No 1967/2006.

(16) The Croatian management plan sets out all relevant definitions on the fisheries concerned and guarantees no further increase of the fishing effort in line with Article 13(9) of Regulation (EC) No 1967/2006 as fishing authorisations will be issued only to specified 87 vessels that are authorised to fish by Croatia. In this respect, it is noted that

in line with the Croatian management plan and the Ministerial Ordinance, no fishing grounds for shore seines nets 'migavica', 'girarica' and 'šabakun' are foreseen in the fishing zone stated as 'A', while shore seine 'oližnica' is permitted only in the fishing subzones stated as 'E4' and 'F2'. Additionally, the use of shore seine nets is prohibited in the areas identified as national parks and special habitats.

(17) The fishing activities concerned fulfil the requirements of Article 4 of Regulation (EC) No 1967/2006. Indeed, the seines are hauled in the water column and do not touch the seabed.

(18) The requirements of Article 8(1)(h) of Regulation (EC) No 1967/2006 are not applicable since they relate to trawlers.

(19) As regards the requirement to comply with Article 9(3) of Regulation (EC) No 1967/2006 establishing the minimum mesh size with regard to use of traditional shore seines 'oližnica' fishing for sand smelt (*Atherina boyeri*), the Commission notes that in accordance with Article 9(7) of that Regulation, Croatia authorised a derogation from Article 9(3) of that Regulation in its management plan, as the fisheries concerned are highly selective, have a negligible effect on the marine environment and are not affected by the provisions in Article 4(5).

(20) The Commission notes that Croatia did not authorise a derogation in its management plan from the requirements of Article 9(3) of Regulation (EC) No 1967/2006 with regard to use of traditional shore seine of large mesh size 'šabakun', fishing for greater amberjack (*Seriola dumerili*) and with regard to use of traditional shore seines 'girarica' and 'migavica', fishing for picarels (*Spicara smaris*).

(21) The fishing activities concerned take place at a very short distance from the coast and therefore do not interfere with the activities of other vessels.

(22) The management plan ensures that catches of species mentioned in Annex III of Regulation (EC) No 1967/2006 are minimal since the targeted species are greater amberjack (*Seriola dumerili*), sand smelt (*Atherina boyeri*) and picarels (*Spicara smaris*), which are not mentioned in Annex III of the Regulation (EC) No 1967/2006 and the fishing activities are highly selective.

(23) Fishing activities are highly selective and do not target cephalopods.

(24) The management plan includes measures for the monitoring of fishing activities, as provided for in the fifth subparagraph of Article 4(5) and in the third subparagraph of Article 13(9) of Regulation (EC) No 1967/2006, thus fulfilling the conditions set out in Article 14 of Council Regulation (EC) No 1224/2009[(3)].

(25) The requested derogations should therefore be granted.

(26) Croatia should report to the Commission in regular intervals and in accordance with the monitoring plan provided for in the Croatian management plan.

(27) A limitation in duration of the derogation will allow ensuring prompt corrective management measures in case the report to the Commission shows a poor conservation