Commission Implementing Regulation (EU) 2018/693 of 7 May 2018 establishing the derogation from Council Regulation (EC) No 1967/2006 as regards the prohibition to fish above protected habitats, the minimum distance from the coast and the minimum sea depth for the 'gangui' trawlers fishing in certain territorial waters of France (Provence-Alpes-Côte d'Azur)

COMMISSION IMPLEMENTING REGULATION (EU) 2018/693

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establishing the derogation from Council Regulation (EC) No 1967/2006 as regards the prohibition to fish above protected habitats, the minimum distance from the coast and the minimum sea depth for the 'gangui' trawlers fishing in certain territorial waters of France (Provence-Alpes-Côte d'Azur)

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, amending Regulation (EEC) No 2847/93 and repealing Regulation (EC) No 1626/94[(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 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 Article 13(1) of Regulation (EC) No 1967/2006, provided that a number of conditions set out in Article 13(5) and (9) are fulfilled.

(5) On 18 May 2011 the Commission received a request from France for a derogation from the first subparagraph of Article 4(1), from the first subparagraph of Article 13(1) and from Article 13(2) of that Regulation, for the use of 'gangui' trawlers in certain sea areas situated within the territorial waters of France, above seagrass beds of *Posidonia oceanica* and within 3 nautical miles from the coast, irrespective of the depth.

(6) The derogation requested by France complied with the conditions laid down in Article 4(5) and Article 13(5) and (9) of Regulation (EC) No 1967/2006 and was granted until 6 June 2017 by Commission Implementing Regulation (EU) No 586/2014[(2)].

(7) On 16 June 2017 the Commission received a request from France for derogations beyond 6 June 2017. France provided up-to-date information and data to justify the derogations, including the implementation report of the management plan adopted by France on 13 May 2014[(3)].

(8) The request concerns fishing activities by vessels of less than or equal to 12 metres 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.

(9) The Scientific, Technical and Economic Committee for Fisheries (STECF) assessed the derogations requested by France and the implementation report concerned during its 55th plenary session held in July 2017. Additional data and clarifications submitted by France were assessed by the STECF in its 56th plenary session held in November 2017. STECF concluded that the data submitted by the French authorities were not sufficient and needed to be improved. Following that, France provided adequate clarifications to the Commission. The current characteristics of the 'gangui' trawlers do not allow providing complete data of the activities thereof, since the small-scale vessels are exempt from certain provisions of the Community control system, such as the fishing logbook data and Vessel Monitoring System. France justified the derogations requested with the scientific and technical data it provided as regards requirements of Regulation (EC) No 1967/2006. France further adopted specific measures, including a complete set of new control and monitoring measures of gangui fisheries, which will allow to confirm the assessment of the use of 'gangui' trawlers. Those measures are provided for by the national Decree[(4)] adopted on 16 March 2018.

(10) France should provide, based on scientific and technical data, the updated mapping of *Posidonia* seagrass beds and a yearly report as regards the implementation of the additional control and monitoring measures and as regards compliance with the requirements for granting the derogations concerned, including information on all necessary measures adopted. On that basis, the Commission considers that the derogations requested by France may be considered complying with the conditions set out in Article 4(5) and in Article 13(5) and (9) of Regulation (EC) No 1967/2006.

(11) The fishing activities concerned affect approximately 15 % of the area covered by seagrass beds of *Posidonia oceanica* within the area covered by the French management plan and 5,8 % of seagrass beds in the territorial waters of France, in line with the ceilings established under requirements of points (ii) and (iii) of the first subparagraph of Article 4(5) of Regulation (EC) No 1967/2006.

(12) There are specific geographical constraints given the limited size of the continental shelf.

(13) The fishery has no significant impact on the marine environment.

(14) The fishery conducted with 'gangui' trawlers target a variety of species which correspond to an ecological niche; the catch composition of this fishery, in particular as regards the number of species caught, is not reflected in any other fishing gear. Therefore, the fishery cannot be undertaken with other gears.

(15) The derogations requested by France affect a limited number of only 24 vessels. This represents a very significant reduction of the fishing effort in terms of a number of vessels, where in 2014 the fisheries concerned 36 vessels.

(16) The management plan guarantees no future increase in the fishing effort, as fishing authorisations will be issued to specified 24 vessels involving a total of 1 136 kW that are already authorised to fish by France. The Commission also takes into consideration that according to France the fishing effort in terms of number of vessels will gradually be reduced.

(17) The request covers vessels with a track record in the fishery of more than five years and which operate under the French management plan in accordance with Article 19(2) of Regulation (EC) No 1967/2006.

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

(19) The fishing activities concerned fulfil the requirements of Article 4, Article 8(1)(h) and Article 9(3) of Regulation (EC) No 1967/2006.

(20) The management plan includes measures for the monitoring of fishing activities, thus fulfilling the conditions set out in Article 14 of Council Regulation (EC) No 1224/2009[(5)].

(21) The fishing activities concerned do not interfere with the activities of vessels using gears other than trawls, seines or similar towed nets.

(22) The activity of 'gangui' trawlers is regulated in the French management plan to ensure that catches of species mentioned in Annex III of Regulation (EC) No 1967/2006 are minimal.

(23) 'Gangui' trawlers do not target cephalopods.

(24) The French 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.

(25) The requested derogations should therefore be granted.

(26) France should report to the Commission in due time and in accordance with the monitoring plan provided for in the French management plan.

(27) The duration of the derogation should be limited in order to allow prompt corrective management measures in case the report to the Commission shows a poor conservation status of the exploited stock, while providing scope to enhance the scientific basis for an improved management plan.