Regulation (EU) 2015/2102 of the European Parliament and of the Council of 28 October 2015 amending Regulation (EU) No 1343/2011 on certain provisions for fishing in the GFCM (General Fisheries Commission for the Mediterranean) Agreement area

REGULATION (EU) 2015/2102 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 28 October 2015

amending Regulation (EU) No 1343/2011 on certain provisions for fishing in the GFCM (General Fisheries Commission for the Mediterranean) Agreement area

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[(1)],

Acting in accordance with the ordinary legislative procedure[(2)],

Whereas:

(1) The Agreement for the establishment of the General Fisheries Commission for the Mediterranean ('the GFCM Agreement') provides an appropriate framework for multilateral cooperation to promote the development, conservation, rational management and best utilisation of living marine resources in the Mediterranean and the Black Sea at levels which are considered sustainable and at low risk of collapse.

(2) The Union, as well as Bulgaria, Greece, Spain, France, Croatia, Italy, Cyprus, Malta, Romania and Slovenia are contracting parties to the GFCM Agreement.

(3) Regulation (EU) No 1343/2011 of the European Parliament and of the Council[(3)] lays down certain provisions for fishing in the GFCM Agreement area. It is the appropriate legislative act for the implementation of those GFCM recommendations the content of which is not yet covered by Union law. Indeed, Regulation (EU) No 1343/2011 can be amended to include the measures contained in the relevant GFCM recommendations.

(4) At its Annual Sessions in 2011 and 2012, the GFCM adopted measures for the sustainable exploitation of red coral in its area of competence, which need to be implemented in Union law. One of those measures concerns the use of Remotely Operated underwater Vehicles (ROVs). The GFCM decided that the further use, in zones under national jurisdiction, of ROVs which had already been authorised to engage in observation and prospection operations in respect of red coral, is to be allowed only under certain conditions and for a limited period of time, unless scientific advice

states otherwise. Consequently, such use of ROVs in Union waters should no longer be allowed after 31 December 2015, unless justified by scientific advice. In line with Recommendation GFCM/35/2011/2, the use of ROVs should also be allowed in the case of Member States which have not yet authorised them for prospection and may wish to do so, provided that scientific results obtained in the context of management plans show no negative impact on the sustainable exploitation of red coral.
In addition, the use of ROVs should be authorised for a limited period not extending beyond 2015, for scientific experimental campaigns both for observation and for harvesting of red coral. According to another measure laid down in Recommendation GFCM/36/2012/1, red coral catches are to be landed only in a limited number of ports with adequate port facilities and the lists of designated ports are to be communicated to the GFCM Secretariat. Any changes affecting the lists of ports designated by Member States should be communicated to the European Commission ('Commission') for further transmission to the GFCM Secretariat.

(5) At its Annual Sessions in 2011 and 2012, the GFCM adopted Recommendations GFCM/35/2011/3, GFCM/35/2011/4, GFCM/35/2011/5 and GFCM/36/2012/2, laying down measures for the mitigation of incidental catches of seabirds, sea turtles, monk seals and cetaceans in fishing activities in the GFCM Agreement area, to be implemented in Union law. Those measures include a prohibition on the use, from 1 January 2015, of bottom-set gillnets with monofilament or twines greater than 0,5 mm, with a view to mitigating incidental catches of cetaceans. That prohibition is already contained in Council Regulation (EC) No 1967/2006[(4)] which, however, covers only the Mediterranean Sea. It should therefore be included in Regulation (EU) No 1343/2011 so as to apply also to the Black Sea.

(6) At its Annual Session in 2012, the GFCM also adopted Recommendation GFCM/36/2012/3 laying down measures aimed at ensuring, in its area of competence, that sharks and rays, and in particular the shark and ray species listed as endangered or threatened under Annex II to the Protocol concerning specially protected areas and biological diversity in the Mediterranean[(5)], are afforded a high level of protection from fishing activities.

(7) According to a measure included in Recommendation GFCM/36/2012/3 which aims at the protection of coastal sharks, fishing activities carried out with trawl nets are to be prohibited within three nautical miles off the coast, provided that the 50 metre isobath is not reached, or within the 50 metre isobath where the depth of 50 metres is reached at a shorter distance from the coast. Under certain conditions, specific and spatially limited derogations may be granted. That prohibition and the possibility of granting derogations are already contained in Regulation (EC) No 1967/2006 which, however, covers only the Mediterranean Sea. They should therefore be included in Regulation (EU) No 1343/2011 so as to apply also to the Black Sea.

(8) Certain other measures aimed at the proper identification of sharks, which are included in Recommendation GFCM/36/2012/3 but which are not covered by Council Regulation (EC) No 1185/2003[(6)] or by other Union legislation, need to be included in

Regulation (EU) No 1343/2011 in order that they may be fully implemented in Union law.

(9) At its Annual Sessions in 2013 and 2014, the GFCM adopted Recommendations GFCM/37/2013/1 and GFCM/38/2014/1, laying down measures for fisheries exploiting small pelagic stocks in the Adriatic Sea, which need to be implemented in Union law. Those measures concern the management of fishing capacity for small pelagic stocks in GFCM Geographical Sub-Areas 17 and 18, on the basis of the reference fishing capacity established by means of the list of fishing vessels that had to be communicated to the GFCM Secretariat by 30 November 2013, in accordance with paragraph 22 of Recommendation GFCM/37/2013/1. That list includes all fishing vessels equipped with trawl nets, purse seines or other types of surrounding nets without purse line, which are authorised by the Member States concerned to fish for small pelagic stocks and registered in harbours located in Geographical Sub-Areas 17 and 18, or which, although registered in harbours located outside those Geographical Sub-Areas on 31 October 2013, are operating in Geographical Sub-Area 17 or 18 or in both.
Any changes which may affect that list should be communicated to the Commission as soon as they occur for further transmission to the GFCM Secretariat.

(10) The GFCM measure laid down in Recommendations GFCM/37/2013/1 and GFCM/38/2014/1 also includes a ban on retention on board or landing which should be implemented in Union law in accordance with Article 15(2) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council[(7)]. For the purpose of proper implementation, national control, monitoring and surveillance programmes should be developed, which the Commission should communicate annually to the GFCM.

(11) In order to improve data gathering with a view to scientific monitoring of certain marine species that are incidentally caught in fishing gears, masters of fishing vessels should be obliged to record incidental catches of the marine species concerned. The national reports to the GFCM Scientific Advisory Committee should contain the information from fishing vessels on incidental catches of certain marine species, supplemented with details from available sources concerning those incidents.

(12) In order to ensure uniform conditions for the implementation of certain provisions of this Regulation, implementing powers should be conferred on the Commission with regard to the format and transmission of data on harvesting of red coral and information related to incidental catches of seabirds, sea turtles, monk seals, cetaceans and sharks and rays, changes to lists of ports designated for landing catches of red coral, the impact of certain fishing vessels on cetacean populations and changes made to the maps and lists of geographical locations which identify the location of caves of monk seals. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[(8)].

(13) In order to ensure that the Union continues to fulfil its obligations under the GFCM Agreement, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of authorisations to derogate from the prohibition on the harvesting of red coral at depths of less than 50 metres and to depart from the minimum basal diameter of red coral colonies. It is of particular importance

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) 2015/2102 of the European Parliament and of the Council. (See end of Document for details)*

that the Commission carry 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 to the Council.

(14) In order to ensure that any derogations to be adopted by the Commission by delegated act pursuant to Article 290 of the Treaty and pertaining to the management of red coral harvesting are well designed to suit regional particularities, Member States having a direct management interest in red coral should be able to submit joint recommendations for the purpose of the adoption of such delegated acts. A deadline should be established for the submission of joint recommendations. During a transitional period leading up to the submission of joint recommendations for a delegated act, Member States should be allowed, in the context of national management plans for red coral, to develop or maintain derogations, as transitional measures. Where the Commission considers that a measure containing derogations which are granted or modified by Member States after 28 November 2015 does not meet the conditions of Recommendations GFCM/35/2011/2 and GFCM/36/2012/1, it should be able to request that that measure be amended.

(15) Regulation (EU) No 1343/2011 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) No 1343/2011

Regulation (EU) No 1343/2011 is amended as follows:

(1) the following Article is inserted:

Article 15a

Use of trawl nets and gill-nets fisheries in the Black Sea

1 The use of trawl nets shall be prohibited:

a within three nautical miles off the coast, provided that the 50 metre isobath is not reached; or

b within the 50 metre isobath where the depth of 50 metres is reached at a shorter distance from the coast.

2 Member States may exceptionally authorise their fishing vessels to fish within the zone referred to in paragraph 1 by granting derogations in accordance with Recommendation GFCM/36/2012/3, provided that they duly inform the Commission of any such derogation.

3 Where the Commission considers that a derogation granted in accordance with paragraph 2 does not fulfil the condition set out in that paragraph, it may, subject to providing relevant reasons and after consulting with the Member State concerned, request it to amend that derogation.

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4 The Commission shall inform the Executive Secretary of the GFCM of any derogations granted in accordance with paragraph 2.

5 From 1 January 2015, the monofilament or twines diameter of bottom-set gillnets shall not exceed 0,5 mm.;

(2) in Title II, the following chapters are added:

CHAPTER IV

Conservation and sustainable exploitation of red coral

Article 16a

Scope

This Chapter shall apply without prejudice to Article 4(2) and points (e) and (g) of Article 8(1) of Regulation (EC) No 1967/2006 or any stricter measures stemming from Council Directive 92/43/EEC[(9)].

Article 16b

Minimum depth for harvesting

1 The harvesting of red coral shall be prohibited at depths of less than 50 metres until the GFCM indicates otherwise.

2 The Commission shall be empowered to adopt delegated acts in accordance with Article 27 of this Regulation and Article 18(1) to (6) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council[(10)] in order to grant derogations from paragraph 1.

3 Joint recommendations to be submitted pursuant to Article 18(1) of Regulation (EU) No 1380/2013 with a view to a derogation as referred to in paragraph 2 of this Article shall be accompanied by:

a detailed information on the national management framework;

b the scientific or technical justifications;

c the list of fishing vessels, or the number of authorisations granted, as regards the harvesting of red coral at depths of less than 50 metres; and

d the list of fishing zones where such harvesting is authorised, as identified by geographic coordinates both on land and at sea.

Any joint recommendation by Member States as referred to in the first subparagraph shall be submitted by 29 November 2018.

4 Derogations referred to in paragraph 2 of this Article shall be granted if the following conditions are satisfied:

a an appropriate national management framework is in place, including a fishing authorisation scheme in accordance with Article 7 of Regulation (EC) No 1224/2009; and