Council Regulation (EC) No 1421/2004 of 19 July 2004 amending Regulation (EC) No 2792/1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector

COUNCIL REGULATION (EC) No 1421/2004

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 36 and 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament[(1)],

Whereas:

(1) Regulation (EC) No 2792/1999[(2)] lays down provisions relating to the protection and development of aquatic resources and to the development of the Community aquaculture sector.

(2) Community legislation establishes the possibility of supplementary aid for scrapping when a recovery plan is applicable. In such a case, or where emergency measures adopted by the Commission or Member States are liable to have similar effects, aid for crew members who are forced to give up fishing owing to the plan or the measures should also be increased. The same should be applicable to crew members who lose their jobs, without the vessel being scrapped, owing to the adoption of a recovery plan or emergency measures.

(3) The Commission issued on 19 September 2002 a communication to the European Parliament and the Council on a strategy for the sustainable development of European aquaculture. The implementation of the strategy involves the need to amend Regulation (EC) No 2792/1999.

(4) The protection and development of aquatic resources do not exclusively concern measures taken at sea, but also, and in particular for anadromous and catadromous species in inland waters. In this respect, the rehabilitation and re-opening of migration routes and spawning areas is of particular importance.

(5) Any increase in production in excess of the likely evolution in demand should not be encouraged. Better marketing strategies have to be implemented, but reliable statistics on fish consumption are often lacking, as is economic analysis on markets and marketing of aquaculture products.

(6) Harmful algae blooms are among the most serious threats for the future of shellfish farming in Europe. Sometimes a bloom can last for exceptionally long periods or

occur during a period of concentrated sales and compensation for the shellfish farmers affected may be justified, except in the case of recurring phenomena.

(7) Enlarging the knowledge base of the industry encompasses all the aspects of farming and is paramount for aquaculture. Due to the inadequacy of the funds allocated for this purpose, it is essential to further encourage applied research and technological development in aquaculture, by expanding the opportunities for its public financing and promoting private initiative in this area.

(8) Aquaculture enterprises should be encouraged to improve their environmental performance and to develop voluntarily initiatives that go beyond the minimum legal requirements in terms of environmental protection.

(9) In order to enable public aid for aquaculture service vessels to be maintained, it is necessary to establish a clear distinction between those vessels and fishing vessels as defined in Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy[(3)], since some fishing vessels may be exclusively used in aquaculture but could possibly revert to fishing activity.

(10) To encourage permanent reduction in fishing effort where a recovery plan is adopted by the Council or emergency measures are adopted by the Commission or Member States, reimbursement of aid previously received by vessels affected by the plan or the measures should not be required.

(11) Where a vessel has to replace fishing gear in the event of a recovery plan, it should be possible to consider the first replacement of fishing gear as eligible expenditure.

(12) Community vessels may be required to use acoustic deterrent devices in certain fisheries to reduce incidental capture and killing of cetaceans. The cost to comply with such an obligation should be eligible to vessel modernisation aid.

(13) The intervention by public authorities in favour of aquaculture from the late 1970s has stimulated production growth, but nowadays the situation has changed and overproduction is a threat for some branches. Consequently, new priorities within the aquaculture measures in the Financial Instrument for Fisheries Guidance Programmes should be set and in certain cases the rate of aid should be reduced.

(14) Some forms of finfish farming may have an ecologically beneficial role, as a way to associate an economic activity with the conservation or development of wetlands. In such circumstances an increase in public support is justified.

(15) Regulation (EC) No 2792/1999 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2792/1999 is hereby amended as follows:

1. In Article 10(3), point (a) is replaced by the following:

(a) expenditure on equipment and modernisation shall not be eligible for aid for five years following the grant of public aid for the construction of the vessel concerned except for equipment in vessel monitoring systems or in acoustic deterrent devices.

2. In Article 12(3), the following point is added:

(e) in the event that a recovery plan is adopted by the Council or where special or emergency measures are adopted by the Commission or by one or more Member States, the maximum amounts of aid referred to in points (b) and (c) may be increased by 20 %. Furthermore, the requirement that the vessel on which the crew members were employed must have permanently stopped its activities, as laid down in point (b), shall not apply.

3. In Article 12(4), point (c) is replaced by the following:

(c) that the compensation referred to in paragraph 3(b) or 3(e) is refunded on a *pro rata temporis* basis where the beneficiaries return to their work as fishermen within a period of less than one year after being paid the compensation.

4. In Article 13(1), point (a) is replaced by the following:

(a) works aimed at the protection and development of aquatic resources, including freshwater resources, except restocking;

5. In Article 15(3), point (n) is replaced by the following:

(n) improvement of knowledge and transparency in production and in the market, including statistics and economic analysis.

6. Article 16 is amended as follows:

(a) the following paragraph is inserted:

1a. The Member States may grant financial compensation to shellfish farmers where the contamination in the shellfish due to the growth of toxin-producing plankton or the presence of plankton containing marine biotoxins makes it necessary, for the protection of human health, to suspend harvesting for more than four consecutive months or, where the losses incurred as a result of the suspension of harvesting during a period of concentrated sales, represents in excess of 35 % of the annual turnover of the enterprise concerned, calculated on the basis of the average turnover of that enterprise over the previous three years. The granting of compensation may cover no more than six months of suspension of harvesting over the entire period from the entry in force of Council Regulation (EC) No 1421/2004 of 19 July 2004 amending Regulation (EC) No 2792/1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector[(4)] to the end of 2006.

(b) in paragraph 3, the first subparagraph is replaced by the following:

The financial contribution from the FIFG to the measures referred to in paragraphs 1, 1a and 2 per Member State for the entire period from 2000 to 2006 may not exceed the higher of the following two thresholds: EUR

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 1421/2004. (See end of Document for details)*

1 million or 4 % of the Community financial assistance allocated to the sector in the Member State concerned.

(c) in paragraph 3, the following subparagraph is added:

Where a recovery plan is adopted by the Council or emergency measures are adopted by the Commission or by one or more Member States, Article 10(3)(b)(ii) shall not apply.

(d) paragraph 4 is replaced by the following:

4. Recurrent seasonal suspension of fishing and aquaculture activity shall not be eligible for compensation under paragraphs 1, 1a, 2 and 3.

7. In Article 17(2), the following subparagraph is added:

Small-scale, applied-research initiatives, not exceeding EUR 150 000 in total cost and three years in duration, carried out by an economic operator, a scientific or technical body, a representative professional organisation or other competent body, shall be eligible as pilot projects, provided that they contribute to the objectives of sustainable development of the aquaculture industry in the Community.

8. Annex III is amended as follows:

(a) point 1.4(a) is replaced by the following:

(a) Vessels must have been registered in the fishing vessels register of the Community for at least five years, except for equipment in vessel monitoring systems or in acoustic deterrent devices. Changes in vessel characteristics must be communicated to this register and the vessels must be measured in accordance with Community provisions, when they are modernised.

(b) point 1.4(b) is amended as follows:

— subparagraph (iii) is amended as follows:

(iii) improvement of working and safety conditions, and/or

— the following subparagraph is added:

(iv) the purchase of acoustic deterrent devices for the purpose of Council Regulation (EC) No 812/2004 of 26 April 2004 laying down measures concerning incidental catches of cetaceans in fisheries[(5)].

— the last subparagraph is replaced as follows:

Without prejudice to Article 16(2), the replacement of fishing gear shall not be considered eligible expenditure, except if the vessel is subject to a recovery plan and is required to end its participation in the fishery concerned and fish for other species with different fishing gear. In this case, the Commission may decide that the first replacement of fishing gear, where fishing possibilities are significantly reduced by a recovery plan, may be considered as eligible expenditure.

(c) the first sentence of point 2.1 is replaced by the following: