Council of the European Union

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PECHE 306

PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	10 September 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2021) 545 final
Subject:	Proposal for a COUNCIL REGULATION amending Council Regulation (EU) 2021/90 of 28 January 2021 fixing for 2021 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Mediterranean and Black Seas

Delegations will find attached document COM(2021) 545 final.

Encl.: COM(2021) 545 final

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Brussels, 10.9.2021
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2021/0287 (NLE)

Proposal for a

COUNCIL REGULATION

amending Council Regulation (EU) 2021/90 of 28 January 2021 fixing for 2021 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Mediterranean and Black Seas

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Council Regulation (EU) 2021/90 of 28 January 2021 fixing for 2021 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Mediterranean and Black Seas needs to be modified to implement the carry-over of the 2020 unused EU turbot quota in the framework of the General Fisheries Commission for the Mediterranean (GFCM).

• Consistency with existing policy provisions in the policy area

The measures proposed are designed in accordance with the objectives and the rules of the Common Fisheries Policy and are consistent with the Union's policy on sustainable development.

• Consistency with other Union policies

The measures proposed are consistent with other Union policies, in particular with the policies in the field of environment.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

The legal basis of this proposal is Article 43(3) of the Treaty on the Functioning of the European Union.

The Union's obligations for sustainable exploitation of living aquatic resources arise from obligations set out in Article 2 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council.

• Subsidiarity (for non-exclusive competence)

The proposal falls under the Union exclusive competence as referred to in Article 3(1)(d) of the Treaty. The subsidiarity principle therefore does not apply.

• Proportionality

The proposal complies with the proportionality principle for the following reason: the CFP is a common policy. According to Article 43(3) of the Treaty, it is incumbent upon the Council to adopt the measures on the fixing and allocation of fishing opportunities.

• Choice of the instrument

Proposed instrument: regulation.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

• Ex-post evaluations/fitness checks of existing legislation

Not applicable

• Stakeholder consultations

Not applicable.

- **Collection and use of expertise**

Not applicable.

- **Impact assessment**

The scope of the fishing opportunities regulation is circumscribed by Article 43(3) of the Treaty.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

Not applicable.

4. BUDGETARY IMPLICATIONS

The proposed measures will have no budgetary implications.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Not applicable.

- **Explanatory documents (for directives)**

Not applicable.

- **Detailed explanation of the specific provisions of the proposal**

The proposed amendment seeks to modify Council Regulation (EU) 2021/90, in particular its Annex VII, as described below.

In 2020, according to the data declared in GFCM, Bulgaria used 83% of its annual quota for turbot (i.e. 62 tonnes out of 75 tonnes). Similarly, Romania used 93% of its annual quota for turbot (i.e. 70 tonnes out of 75 tonnes). This leads to a total use of the EU quota of 88% (i.e. 132 tonnes out of 150 tonnes). Therefore, the quantities not fished to 2021 by the EU corresponds approximately to 18 tonnes.

According to the GFCM turbot multiannual management plan, as established with the Recommendation GFCM//41/2017/4 and as amended by the Recommendation GFCM/43/2019/3, in particular paragraph 1(e) thereto, "*The maximum underage that a CPC may carry over in any given year shall not exceed 15 percent of its initial annual quota. If the stock is in a dire state and scientific advice of the WGBS recommends a reduction in fishing mortality, then carrying-over of any unused quota may be prohibited*''.

The EU request to carry-over its unused quota in 2020 has been presented during the GFCM Compliance Committee (21 May 2021), which recognised the exceptional situation created by the Covid-19 pandemic. The carry-over request was also discussed in the Black Sea committee Working Group, in an anticipated meeting for that purpose, in July 2021. Subsequently, the 44th GFCM Commission annual session approved the carry-over.

Therefore, the decision taken by GFCM has to be implemented through an amendment to Council Regulation (EU) 2021/90.

The distribution of turbot fishing opportunities in the Black Sea established in Regulation (EU) 2021/90 should therefore be amended in order to reflect the adjustments to the Union quotas of turbot established by the GFCM in 2021. The distribution of the fishing opportunities arising from this under-utilisation should be carried out on the basis of the respective contribution of each Member State towards the under-utilisation without modifying the allocation key established in Regulation No (EU) 2021/90 concerning the annual allocation of the Union turbot quotas to its Member States. Both concerned Member States, Bulgaria and Romania share equally the Union turbot quotas with an allocation key corresponding to 50% of the Union turbot quotas in the Black Sea per Member State.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Council Regulation (EU) 2021/90 fixes for 2021 the fishing opportunities for fish stocks and groups of fish stocks applicable in the Mediterranean and Black Seas[1]. The Regulation implements in Union law the turbot management plan adopted by the General Fisheries Commission for the Mediterranean (GFCM)[2] for turbot fisheries in the Black Seas (geographical subarea 29).

(2) At its 44th annual meeting in 2021, the GFCM adopted a decision observing that during the year 2020, the European Union had underexploited its quota for turbot and approving a carry-over of the unused quota in view of the exceptional situation created by the Covid-19 pandemic. The GFCM decision should therefore be implemented in Union law.

(3) The distribution of fishing opportunities in the Black Sea established in Regulation (EU) 2021/90 should therefore be amended to reflect the adjustments to the Union quotas established by the GFCM. The distribution of the fishing opportunities arising from this under-utilisation should be carried out on the basis of the respective contribution of each Member State towards the under-utilisation without modifying the distribution key established in Regulation No (EU) 2021/90 concerning the annual allocation of TACs.

(4) Regulation (EU) 2021/90 should therefore be amended accordingly.

(5) The catch limits provided for in Regulation (EU) 2021/90 apply from 1 January 2021. The provisions introduced by this Regulation concerning catch limits should therefore enter into force as soon as possible and apply retroactively from 1 January 2021. Such retroactive application does not affect the principles of legal certainty and protection of legitimate expectations as the fishing opportunities concerned are increased and have not yet been exhausted. For reasons of urgency, this Regulation should enter into force immediately after its publication,

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[1] Council Regulation (EU) 2021/90 of 28 January 2021 fixing for 2021 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Mediterranean and Black Seas (OJ L 31, 29.1.2021, p. 1–19).

[2] Recommendation GFCM//41/2017/4 as amended by Recommendation GFCM/43/2019/3.

HAS ADOPTED THIS REGULATION:

Article 1
Amendment of Regulation (EU) 2021/90

Annex VII to Regulation (EU) 2021/90 is amended as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2021.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President