

FICHE NIF

NETHERLANDS – Compliance with EU law on the use of electric fishing

FAIT INCRIMINÉ

Failure to comply with the EU requirements on the use of electric fishing by the Netherlands.

FACTS

The Commission received a complaint (CHAP(2017)03012) regarding the circumstances under which the Dutch authorities have authorised Dutch registered vessels to use electric pulse fishing methods. In particular, the complainant questioned the manner in which these vessels were authorised in relation to Articles 31a and 43 of Regulation 850/1998 for the conservation of fisheries resources through technical measures (Technical Measures Regulation) and Article 14 of Regulation 1380/2013 on the Common Fisheries Policy (Basic Regulation).

CORRESPONDENCE

The facts mentioned above triggered the opening of the EU Pilot case N° EUP(2018)9298. On 6 April 2018, the Commission requested the Netherlands to provide detailed information on the non-compliance issues alleged by the complainant, as well as on the measures they intended to take to solve them. On 22 June 2018, the Netherlands provided the requested information and indicated that they do not share the Commission's reading of Article 31a of the Technical Measures Regulation. By letter of 10 August 2018, the Commission specified its reading of the concerned EU provisions and requested further extensive and concrete data from the Netherlands. In their reply of 12 November 2018, the Dutch authorities provided the data requested and reaffirmed their understanding of Article 31a. Moreover, they indicated that they also do not share the Commission's reading of Article 43 of the Technical Measures Regulation.

LEGAL ANALYSIS

The information provided by the Dutch authorities through the EU Pilot procedure and gathered by the Commission in the course of its investigations shows that the Netherlands failed to fulfil their obligations under Articles 31a and 43 of the Technical Measures Regulation, since they are not respecting the 5% threshold for the use of electric pulse trawl (Article 31a), nor are they complying with the rule permitting the use of this fishing method only when the fishing operations are conducted solely for the purpose of scientific research (Article 43).

Indeed, regarding the calculation of the 5% threshold for the use of electric pulse trawl (Art 31a), the Commission detected breaches in relation to (1) the Dutch concept of beam trawler fleet, which is not determined by reference to the vessels that are recorded in the Union fishing fleet register; (2) the non-application of the 5% threshold overtime; (3) the Dutch

system of pulse-fishing authorisations, which is not properly monitored, and (4) the fact that at no time since the first application of this rule the size of the Dutch beam trawler fleet would have justified the granting of the 22 authorisations issued by the Netherlands.

Regarding Article 43, the Commission found that the Dutch authorities do not correctly interpret this provision, and detected that a large number of authorisations granted were used for fishing operations that were not conducted solely for the purpose of scientific investigations.

PROPOSAL

In these circumstances, it is proposed to address a letter of formal notice to the Netherlands.