

Common Fisheries Policy: behaviours seriously infringing the rules

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The present Communication refers to the cases of behaviours which seriously infringed the rules of the CFP and for which a file has been opened by a national authority in 2005. This is the sixth Communication on this matter.

The total number of cases reported by Member States is 10 443 spread over the whole list of breaches included in the list of Council Regulation (EC) N° 1447/1999. The number is 8.11% higher than in 2004: the trend towards an increase on the number of detected breaches is thus confirmed, although one should also consider the enlargement of the European Union.

Precisely, the Member States have detected 783 breaches more than in 2004, but the fleet has increased by 5697 units since the 2004 Accession. With a view to easing the comparison, it should be noted that the number of serious infringements detected in previous years was 7 298 in 2000, 8 139 in 2001, 6 756 in 2002, 9 502 in 2003 and 9 660 in 2004.

It should also be noted that some Member States reported in 2005 a significant, and unexplained, increase or drop in the number of cases detected when compared with 2004 figures. This may be at least partly due to the fact that, as already underlined in the previous Communications, the number of infringements recorded may or may not include breaches of rules other than the CFP rules and/or related to activities carried out in internal waters or while fishing for recreational purposes, following national guidelines.

74% of the infringements have been detected by Spain, Italy and Portugal. These countries are also among those with a larger number of vessels. Unauthorised fishing concerns 23% of cases, while storing, processing, placing for sale and transporting fishery products not meeting the marketing standards in force comes second (17%). Fishing without holding a licence rises to third position (15%). These percentages are similar to those for 2004 and in fact most infringements detected since 2000 relate to these three types of behaviour, while very few cases (less than 10%) concern other types of serious breaches to the rules of the CFP. The number of cases of tampering with the Vessel Monitoring System (VMS) almost doubled in 2005 in comparison with previous years. It seems nevertheless still low when the observations made by the Commission's inspectors are considered.

In 2005, 8 665 procedures ended with a sanction. There are still striking and inexplicable differences for the same type of infringement across EU and the average fine imposed across EU in the proceedings that ended with a penalty in 2005 amounts to EUR 1 548: this figure is less than half the average fine imposed in 2003 (EUR 4 664) and less than the average fine imposed in 2004 (EUR 2 272). There has also been a significant decrease in the number of licences withdrawn, which is also shown in the annexed tables (only 335 compared with 1 226 in 2004). Only Denmark and Greece used this penalty in more than 10% of the infringements sanctioned. Spain and France have reported 1 and 8 withdrawals respectively.

Finally, attention is drawn to the consideration that the amount paid by the fisheries industry as a consequence of monetary penalties imposed in 2005 (EUR 10.8 million) remains rather insignificant since it represents only a 0.17% of the value of landings in 2004.

The Commission presented on 31 May 2006 to the Group of Experts on Fisheries Control suggestions on a new typology of infringements to be scrutinised as well as on how the Communication outline could be amended.

The Commission proposed in particular:

- to narrow the scope of the Communication by monitoring exclusively the infringements of those CFP rules deemed to be the most important amongst the "serious" ones. Infringements of national rules or committed by non-professional fishermen will not be recorded anymore;
- to better describe each type of infringement; and
- to broaden the content of the reports from Member States which will in particular include information on the socio-economic situation of the lawbreakers and on the effective impact of the sanctions imposed.

The Commission will continue discussing the matter with Member States prior to a formal proposal for a revision of the legal framework, in particular within the context of the recasting of Community legislation relating to control in the fisheries area and to the fight against illegal fishing practices. Meanwhile, the Commission has to insist that it is necessary that Member States provide the Commission with information which goes beyond the statistical data in order to improve the quality of the next Communication and to make it become a more useful instrument of transparency.

As regards the Member States' responsibilities, the Commission shall again call upon them to give appropriate consideration to the obligation to ensure compliance with CFP rules with all possible means. The Commission has to state that Member States do not fulfil all their obligations arising from the CFP rules. One example will suffice: the Member States are currently not properly equipped with the suitable means which would allow them to collect, process and assess data related to "serious infringements" of the CFP rules, as they should do. Member States have not set up databases for encoding relevant aspects relating to each single case. The Commission would like to insist on this point. Without a computerized database comprising information pertaining, to the law breaker, the vessel or the enterprise, the legal provisions, the species and fisheries areas, the economic context, the administrative costs, the main and ancillary sanction inflicted; it will not be possible to properly assess behaviours, administrative performance and efficacy of legislation in force. Only through processing these data and those contained in the databases already foreseen by Community law (such as Fleet register, statistics, VMS records), it would be possible to assess Member States' performance, compare them and eventually adjust administrative procedures and legislative texts, so that CFP rules would be effectively enforced.

The Commission has already suggested a format to be used by national administration to that purpose. It is ready to assist the Member States, also financially through existing budget lines, to set up new tools.

The Commission urges Member States to adapt their legislation and administrative organisation accordingly.