Common Fisheries Policy: behaviours seriously infringing the rules

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Council Regulation 1447/1999/EC introduced a list of types of behaviour which seriously infringe the rules of the Common Fisheries Policy. The breaches included in the list are linked to the most important obligations imposed by the Community rules on stock conservation, monitoring and the marketing of fisheries products. Similar lists have been established by Regional Fisheries Organisations. Because of their seriousness, such behaviours should attract “proportional, effective and dissuasive” penalties imposed by national authorities.

Member States are obliged to report yearly to the Commission on the initiatives taken with regard to the breaches which have been detected. This information should allow a comparison between Member States as regards initiatives taken against the operators in the fishing industry who have been found guilty of a “serious infringement”, i.e. those which hindered the most the sound management of resources. The legislator’s goal is to progressively achieve a level playing field among the fishermen.

This report makes the following key points:

-Member States reported a total number of 9 502cases of serious infringements covering all types of breaches included in the list. The number of breaches detected is higher than in previous years.

88% of infringements have been detected by 5 Member States, i.e. Greece, France, Spain , Italy and Portugal, the last three being by far those which reported most cases. These countries are also those with a larger number of vessels.

-Unauthorized fishing concerns 22% of case, fishing without holding a licence ranges second (17%), While storing, processing, placing for sale and transporting fishery products not meeting the marketing standards in force rises to third position (12%), almost three times the score in 2002: therefore, it seems that Member States gave particular attention to this infringement. Other types of behaviours frequently reported are using prohibited fishing methods and falsifying data records (10% each). Very few cases concerning other types of serious breaches to the rules of the CFP, for instance tampering with the Vessel monitoring system, have been reported.

-84% of infringement procedures were concluded with the application of a penalty. In Greece and Germany 100% of infringements were sanctioned. In Spain and the United Kingdom more than 90% of them were also sanctioned. However, only 24% of infringements were sanctioned in Sweden (last year only 5% of behaviours were sanctioned in this country). It can not be excluded, as a consequence of incorrect encoding, that these statistics include to a certain extent proceedings which were initiated during previous years but not finalised until 2003.

-When comparing fines imposed on fishermen, there are still striking differences between Member States for the same type of infringement. The report gives examples and notes that Regulation 1447/99 does not indicate any ranking between the 19 types of breaches as regards to their gravity. Moreover, some of the fines reported could include the value of the seizures and others not, meaning that comparisons between fines in different Member States are biased. Indeed the value of the catches on board should be taken into consideration by the authority when imposing a penalty. The Commission considers that this rule, which is applied only in some Member States, should be of general application across the Community.

-The average fine imposed in the proceedings that ended with a penalty amounts to EUR 4 664 which is much higher than previous years (it was only EUR 1 757 in 2002). Furthermore, in 4 720 cases the seizure of catches or gears was ordered. Belgium, Greece, Spain and Italy were the Member States which reported to have applied this measure in a significant number of cases. On the other hand, Germany and Finland reported no seizure of catches or gears.

-The Commission is of the opinion that an administrative sanction like the suspension of an authorisation to carry out a professional activity may be a very effective tool to increase compliance with CFP rules due to the fact that it could be quickly applied. It is therefore regrettable that the majority of Member States do not use this tool more often.

The Commission emphasises in this report thatMember States do not provide the Commission's services with detailed information. It is difficult to have a clear picture of the situation since there are indications that the data submitted to the Commission in the context of serious infringements are inaccurate. In some cases it appears that the number of infringements reported may include recreational fishing and other fishing activities that are not covered by the Common Fisheries Policy. As for the average fines, there are cases where the reported levels probably include confiscation values which should have been reported separately. There are also indications that there are instances where the outcome of a case goes unreported because the finalisation of the case does not occur in the same year as the detection of the infringement. Furthermore, the accuracy of data collected varies greatly even within the same Member State. For instance, this could be the case when the responsibilities are highly decentralised. Since it cannot be excluded that Member States do not always use the right codes for the infringements and given the fact that they do not always correctly fill in the form, all the figures are subject to caution.

Despite the difficulty in drawing clear conclusions, the Commission wishes to underline that, Member States have not yet taken every useful initiative to tackle behaviours which are contrary to the CFP rules. For instance, the small number of detected breaches for tampering with VMS raises the question whether national rules are in place. Furthermore, it can be said that the amount of the sanctions applied across the Community do not seem to have a deterrent effect. Although statistics show that more than 10% of the vessels has been sanctioned, the amount paid by the fisheries industry as a consequence of sanctions imposed in 2003 (EUR 28,7 millions) is roughly equal to thousandths of the 2002 landing value.