Basic information

2012/0216(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Incidental catches of cetaceans in fisheries; alignment of the Regulation with the TFEU (Commission delegated and implementing powers) Amending Regulation (EC) No 812/2004 2003/0163(CNS) **Subject** 3.15.01 Fish stocks, conservation of fishery resources 3.15.04 Management of fisheries, fisheries, fishing grounds 3.70.01 Protection of natural resources: fauna, flora, nature, wildlife, countryside; biodiversity	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
PECH Fisheries	ROMEVA I RUEDA Raül (Verts/ALE)	11/03/2014

Former committee responsible	Former rapporteur	Appointed
PECH Fisheries	ROMEVA I RUEDA Raül (Verts/ALE)	06/09/2012

Former committee for opinion	Former rapporteur for opinion	Appointed
ENVI Environment, Public Health and Food Safety	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
Justice and Home Affairs (JHA)	3298	2014-03-03

European Commission

Commission DG	Commissioner
Maritime Affairs and Fisheries	DAMANAKI Maria

European Economic and Social Committee

Key events

Date	Event	Reference	Summary
08/08/2012	Legislative proposal published	COM(2012)0447	Summary
11/09/2012	Committee referral announced in Parliament, 1st reading		
19/02/2013	Vote in committee, 1st reading		
22/02/2013	Committee report tabled for plenary, 1st reading	A7-0042/2013	Summary
16/04/2013	Decision by Parliament, 1st reading	T7-0104/2013	Summary
16/04/2013	Results of vote in Parliament		
04/03/2014	Council position published	06103/1/2014	Summary
13/03/2014	Committee referral announced in Parliament, 2nd reading		
07/04/2014	Vote in committee, 2nd reading		
08/04/2014	Committee recommendation tabled for plenary, 2nd reading	A7-0272/2014	Summary
16/04/2014	Decision by Parliament, 2nd reading	T7-0414/2014	Summary
16/04/2014	Final act signed		
16/04/2014	End of procedure in Parliament		
12/06/2014	Final act published in Official Journal		

Technical information

Procedure reference	2012/0216(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Amending Regulation (EC) No 812/2004 2003/0163(CNS)
Legal basis	Treaty on the Functioning of the European Union TFEU 043-p2
Other legal basis	Rules of Procedure EP 165
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Procedure completed
Committee dossier	PECH/7/15414

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE502.049	19/12/2012	
Amendments tabled in committee		PE504.110	29/01/2013	
Committee report tabled for plenary, 1st reading/single reading		A7-0042/2013	22/02/2013	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0104/2013	16/04/2013	Summary

Committee draft report		PE530.050	12/03/2014	
Committee recommendation tabled for plenary, 2nd reading		A7-0272/2014	08/04/2014	Summary
Text adopted by Parliament, 2nd reading		T7-0414/2014	16/04/2014	Summary

Council of the EU

Document type	Reference	Date	Summary
Council statement on its position	06708/2014	28/02/2014	
Council position	06103/1/2014	04/03/2014	Summary
Draft final act	00083/2014/LEX	16/04/2014	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2012)0447	08/08/2012	Summary
Commission response to text adopted in plenary	SP(2013)338	15/05/2013	
Commission communication on Council's position	COM(2014)0159	07/03/2014	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES2151/2012	14/11/2012	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Regulation 2014/0597
OJ L 173 12.06.2014, p. 0062 Summary

Incidental catches of cetaceans in fisheries; alignment of the Regulation with the TFEU (Commission delegated and implementing powers)

2012/0216(COD) - 22/02/2013 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Fisheries adopted the report by Raül ROMEVA i RUEDA (Greens/EFA, ES) on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 812/2004 laying down measures concerning incidental catches of cetaceans in fisheries and amending Regulation (EC) No 88/98.

The committee recommends that the European Parliament's position, adopted at first reading following the ordinary legislative procedures, should be to amend the Commission proposal as follows:

Review of the Regulation: noting that cetacean populations have dramatically decreased, while tens of thousands of cetaceans die every year in EU waters, Members call on the Commission to review, **no later than 31 December 2015**, the effectiveness of the measures laid down in this Regulation and accompany this review with an **overarching legislative proposal** for ensuring the effective protection of cetaceans.

Delegated acts: the report suggests a stricter definition of the circumstances under which the Commission may adopt delegated acts. They propose limiting the delegation of power on the Commission for a **period of three years** from the date of entry into force of this Regulation. They oblige the Commission to report on its exercise in order to have a regular evaluation and questioning of the use of the delegation.

Incidental catches of cetaceans in fisheries; alignment of the Regulation with the TFEU (Commission delegated and implementing powers)

2012/0216(COD) - 16/04/2013 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 690 to 5 with 10 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 812/2004 laying down measures concerning incidental catches of cetaceans in fisheries and amending Regulation (EC) No 88/98.

Parliament adopted its position in first reading following the ordinary legislative procedure. It amended the Commission proposal as follows:

Review of the Regulation: noting that cetacean populations have dramatically decreased, while tens of thousands of cetaceans die every year in EU waters, Members call on the Commission to review, **no later than 31 December 2015**, the effectiveness of the measures laid down in this Regulation and accompany this review with **an overarching legislative proposal** for ensuring the effective protection of cetaceans.

Delegated acts: the Commission should be empowered to adopt delegated acts In order to ensure the efficient adaptation of certain provisions to reflect technical and scientific progress. Parliament proposes to **limit the delegation of power to three years** from the entry into force of the regulation (which may be tacitly extended for an identical period) and to require the Commission to draw up a report in respect of the delegation of power not later than nine months before the end of the three-year period.

Incidental catches of cetaceans in fisheries; alignment of the Regulation with the TFEU (Commission delegated and implementing powers)

2012/0216(COD) - 04/03/2014 - Council position

The communication from the Commission concerns the Council's position at first reading on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 812/2004 laying down measures concerning incidental catches of cetaceans in fisheries.

The Commission agrees with the Council position, as the compromise political agreement between the European Parliament and the Council maintains the reclassificiation of the powers as it figures in the Commission's proposal.

Specifically, the Commission accepts the compromise aiming to :

- define the scope of the delegated act concerning acoustic deterrent devices in more specific terms to improve clarity, and to limit the duration of the delegation of powers to four years with a tacit-renewal clause ;
- add an obligation for the Commission to review the provisions of the Regulation by the end of 2015 and, if appropriate to submit a new legislative proposal. This addition protects the Commission's right of initiative and also provides a reference to the development of measures under regionalisation, which is a key objective of the Common Fisheries Policy However, with regard to the obligation to review this regulation and submit an overarching legislative proposal if appropriate, **the Commission sees the need to make a statement to clarify its position.**

In its statement, the Commission states that it will consider coming forward with a proposal for a new technical measures framework including mitigating measures to minimise incidental catches of cetaceans and other sensitive species, and allow the development of specific measures tailored to the specificities of fisheries at a regional level if appropriate. Once this is achieved, the regulation will be repealed.

Incidental catches of cetaceans in fisheries; alignment of the Regulation with the TFEU (Commission delegated and implementing powers)

2012/0216(COD) - 07/03/2014 - Commission communication on Council's position

The Council adopted its position at first reading with a view to the adoption of the Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 812/2004 laying down measures concerning incidental catches of cetaceans in fisheries.

The Council's position in first reading **reflects the compromise reached in negotiations between Parliament and Council,** with the help of the Commission.

The main points of the compromise are as follows:

Conditions of the delegation of powers to the Commission : Parliament agreed with the Council's suggestion to :

- limit the delegation of powers to allow updating the signal characteristics and the corresponding implementation characteristics of the use of acoustic deterrent devices, in light of technical and scientific progress;
- limit the duration of the delegation to **4 years**, which can be tacitly extended for periods of an identical duration.

Review: the Council accepted the idea put forward by the European Parliament of a **review by the Commission, before the end of 2015,** of the appropriateness and the effectiveness of Council Regulation (EC) 812/2004. On this basis, the Commission would consider submitting to Parliament and Council an overarching legislative proposal for ensuring the effective protection of cetaceans through the regionalisation process.

The Chairman of Parliament's Committee on Fisheries addressed a letter to the Chairman of Coreper stating that, should the Council transmit formally its own first-reading position to the Parliament in the form set out in the Annex to that letter, he would recommend to plenary that the latter accept the Council's position without amendment.

Incidental catches of cetaceans in fisheries; alignment of the Regulation with the TFEU (Commission delegated and implementing powers)

2012/0216(COD) - 08/04/2014 - Committee recommendation tabled for plenary, 2nd reading

The Committee on Fisheries adopted the recommendation for second reading contained in the report by Raül ROMEVA i RUEDA (Greens/EFA, ES) on the Council position at first reading with a view to the adoption of a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 812/2004 laying down measures concerning incidental catches of cetaceans in fisheries.

Following the adoption of Parliament's first reading position in plenary on 16 April 2013, contacts were established with the Greek Presidency with a view to reaching an early second reading agreement. After one round of trilogue on 30 January 2014, Parliament and Council's negotiating team reached agreement on the file.

The Council accepted Parliament's idea of the Commission reviewing, no later than 31 December 2015, the effectiveness of the measures laid down in Council Regulation (EC) No 812/2004. On this basis, the Commission should submit to Parliament and Council an overarching legislative proposal for ensuring the effective protection of cetaceans, including the development of measures under regionalisation.

The Commission would be empowered to adopt delegated acts in order to update the signal characteristics and the corresponding implementation characteristics of acoustic deterrent devices, to reflect the state of technical and scientific progress. The Commission would make provision for sufficient time for the implementation of such adaptations.

The power to adopt delegated acts would be conferred on the Commission for a period of four years.

As the Council's first reading position tallies with the agreement reached in the trilogues, the committee recommended that Parliament accept it without further amendments.

Incidental catches of cetaceans in fisheries; alignment of the Regulation with the TFEU (Commission delegated and implementing powers)

2012/0216(COD) - 08/08/2012 - Legislative proposal

PURPOSE: to amend Council Regulation (EC) No 812/2004 laying down measures concerning incidental catches of cetaceans in fisheries, in order to identify the powers conferred upon the Commission and to classify these as delegated or implementing powers.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

BACKGROUND: the Treaty on the Functioning of the European Union (TFEU) makes a distinction between:

- the powers delegated to the Commission to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of the legislative act (delegated acts under Article 290(1)), and
- the powers conferred upon the Commission to adopt uniform conditions for implementing legally binding Union acts as laid down in Article of the TFEU (implementing acts under Article 291(2)).

As a consequence of the entry into force of the Lisbon Treaty, the Commission powers conferred for the implementation of Regulation (EC) No 812 /2004 need to be aligned to Articles 290 and 291 of the Treaty on the Functioning of the European Union.

IMPACT ASSESSMENT: no impact assessment was undertaken.

LEGAL BASIS: Article 43(2) of the Treaty on the Functioning of the European Union.

CONTENT: the main points of the proposal are as follows:

- the Commission will be empowered to adopt **delegated acts in respect of technical specifications and conditions of use of acoustic deterrent devices**. The delegation of power shall be conferred for an indeterminate period of time and may be revoked at any time by the European Parliament or by the Council. A delegated act shall enter into force only if no objection has been expressed either by the European Parliament or the Council within 2 months. That period shall be extended by 2 months at the initiative of the European Parliament or the Council;
- implementing powers will be conferred on the Commission concerning **rules on the procedure and format for reporting obligations for Member States**.

BUDGETARY IMPLICATIONS: this measure does not involve any additional Union expenditure.

Incidental catches of cetaceans in fisheries; alignment of the Regulation with the TFEU (Commission delegated and implementing powers)

2012/0216(COD) - 16/04/2014 - Text adopted by Parliament, 2nd reading

Following the recommendation of the Committee on Fisheries, the European Parliament approved the Council's position at first reading with a view to the adoption of a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 812/2004 laying down measures concerning incidental catches of cetaceans in fisheries.

Incidental catches of cetaceans in fisheries; alignment of the Regulation with the TFEU (Commission delegated and implementing powers)

2012/0216(COD) - 16/04/2014 - Final act

PURPOSE: to align Council Regulation (EC) No 812/2004 laying down measures concerning incidental catches of cetaceans in fisheries with the new rules of the Treaty on the Functioning of the European Union (TFEU) (the Commission powers of delegation and implementation).

LEGISLATIVE ACT: Regulation (EU) No 597/2014 of the European Parliament and of the Council amending Council Regulation (EC) No 812/2004 laying down measures concerning incidental catches of cetaceans in fisheries.

CONTENT: following the entry into force of the Treaty of Lisbon, this Regulation aligns Regulation (EC) No 812/2004 with the provisons of the TFEU which establishes a distinction between:

- the powers delegated to the Commission to adopt non-legislative acts of general scope which supplement or amend certain non-essential elements of a legislative act, as provided in Artice 290, paragraph 1, TFEU (delegated acts),
- powers conferred to the CCommission to adopt uniform rules of legally binding acts of the Union, as provided for in Article 291, paragraph 2, TFEU (implementing acts).

Under the terms of the Regulation, the Commission may adopt **delegated acts** in respect of the conditions of use and the technical specifications of the use of acoustic deterrent devices (including the signal characteristics and those of implementation) and **implementing acts** with regard to the procedure and format of the reports that the Member States are required to establish.

The power to adopt delegated acts shall be conferred on the Commission for a period of **four years (with tacit extension) from 2 July 2014**. The European Parliament or the Council may object to a delegated act within a period of **two months** from the date of notification (this period can be extended for two months). If the European Parliament or the Council make objections, the delegated act will not enter into force.

By 31 December 2015, the Commission should **review the effectiveness of the measures** provided by the Regulation, and, if appropriate, submit to the European Parliament and to the Council an overarching legislative proposal for ensuring the effective protection of cetaceans.

ENTRY INTO FORCE: 02.07.2014.