

# REGULATIONS

## COUNCIL REGULATION (EU) 2019/1097

of 26 June 2019

### amending Regulation (EU) 2019/124 as regards certain fishing opportunities

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) 2019/124 <sup>(1)</sup> fixes for 2019 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in Union waters and, for Union vessels, in certain non-Union waters.
- (2) The multiannual plan for the Western Waters <sup>(2)</sup>, which entered into force on 26 March 2019, repealed the recovery plan for Southern hake and Norway lobster <sup>(3)</sup>. The fishing effort limits in Annex IIA of Council Regulation (EU) 2019/124 were set in accordance with that recovery plan. As the stocks concerned will be managed in line with the provisions of the multiannual plan for the Western Waters by setting catch limits to achieve target fishing mortality in line with the ranges of the maximum sustainable yield ( $F_{MSY}$ ), it is no longer necessary to continue setting fishing effort limits for the fleets fishing for those stocks. Annex IIA of Council Regulation (EU) 2019/124 should therefore be repealed.
- (3) The International Council for the Exploration of the Sea (ICES) issued scientific advice for no catches for whiting (*Merlangius merlangus*) in the ICES division 7a (the Irish Sea). The by-catch total allowable catch (TAC) for that stock for 2019 has been set to strike the right balance between continuing fisheries, in view of the potentially severe socio-economic implications, and the need to achieve a good biological status for those stocks, taking into account the difficulty of fishing all stocks in a mixed fishery at  $F_{MSY}$  at the same time. The updated scientific analysis from the ICES on the status of whiting in ICES division 7a and its unavoidable by-catches in other fisheries provided for the status quo scenario estimating corresponding catches at 1 385 tonnes. Following this scientific analysis, the TAC should be amended to reflect an amount that will minimise the risk of an early fisheries closure, whilst allowing the spawning stock biomass to continue recovering. The level of the TAC should also reflect that the mortality for that stock is not increased and that the TAC provides incentives for improvements in selectivity and avoidance.
- (4) In December 2018, the Member States concerned agreed that they would cooperate in the North Western Waters Member States Group and in close cooperation with the North Western Waters Advisory Council to prepare a multiannual by-catch reduction plan. This plan should ensure that by-catches of the five stocks in question, including whiting in the Irish Sea, for which the ICES has issued zero catch advice for 2019, are reduced through selectivity or avoidance measures. The Commission has indicated that it intends to submit this plan for the Scientific, Technical and Economic Committee for Fisheries (STECF) Plenary Session in July 2019, in order to

<sup>(1)</sup> Council Regulation (EU) 2019/124 of 30 January 2019 fixing for 2019 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters (OJ L 29, 31.1.2019, p. 1).

<sup>(2)</sup> Regulation (EU) 2019/472 of the European Parliament and of the Council of 19 March 2019 establishing a multiannual plan for stocks fished in the Western Waters and adjacent waters, and for fisheries exploiting those stocks, amending Regulations (EU) 2016/1139 and (EU) 2018/973, and repealing Council Regulations (EC) No 811/2004, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007 and (EC) No 1300/2008 (OJ L 83, 25.3.2019, p. 1).

<sup>(3)</sup> Council Regulation (EC) No 2166/2005 of 20 December 2005 establishing measures for the recovery of the Southern hake and Norway lobster stocks in the Cantabrian Sea and Western Iberian peninsula and amending Regulation (EC) No 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms (OJ L 345, 28.12.2005, p. 5).

assess its effectiveness. If the STECF assessment shows that the by-catch reduction plan will not achieve the desired effect of reducing fishing mortality on by-catches, the Commission has indicated that it will consider alternative measures to reduce the fishing mortality for the stocks concerned.

- (5) According to the ICES advice of 28 March 2019, catches of Norway lobster (*Nephrops norvegicus*) in functional unit 31 in ICES division 8c should be no more than 0,7 tonnes for the period from 1 January 2019 to 31 December 2019. The fishing opportunities for Norway lobster in functional unit 31 in ICES division 8c should be set accordingly.
- (6) On 28 March 2019, ICES issued advice for catches of Northern prawn (*Pandalus borealis*) in ICES divisions 3a and 4a East (Skagerrak and Kattegat and the northern North Sea in the Norwegian Deep). On the basis of that advice and following consultations with Norway, it is appropriate to fix the Union quota for Northern prawn in ICES division 3a at 2 304 tonnes, in line with the  $F_{MSY}$ .
- (7) On 22 February 2019, ICES issued updated advice for catches of saithe (*Pollachius virens*) in the North Sea. On the basis of that advice and following consultations with Norway, the TAC for saithe should be amended accordingly, in line with the  $F_{MSY}$ .
- (8) According to ICES advice issued on 12 April 2019, catches of sprat (*Sprattus sprattus*) in division 3a (Skagerrak and Kattegat) and subarea 4 (the North Sea) for the period from 1 July 2019 to 30 June 2020 should be no more than 138 726 tonnes. The TAC for sprat in 3a was set at 26 624 tonnes. The fishing opportunities for sprat in the Union waters of ICES division 2a and subarea 4 should be set taking into account the TAC already fixed for ICES division 3a and in line with the  $F_{MSY}$ . In order to guarantee full use of fishing opportunities, it is appropriate to introduce an inter-area flexibility for sprat from ICES division 3a to ICES subareas 2a and 4.
- (9) The TAC for anchovy (*Engraulis encrasicolus*) in ICES subareas 9 and 10 and Union waters of the Fishery Committee for the Eastern Central Atlantic (CECAF) 34.1.1 for the period from 1 July 2019 to 30 June 2020 has been set at zero, pending the scientific advice for that period. ICES will issue its advice for this stock only at the end of June 2019, although the fishery continues during the summer period. In order to ensure that fishing activity may continue until the TAC is set on the basis of the latest scientific advice, a provisional TAC of 4 902 tonnes, based on the catches in the third quarter of 2018, should be established. The TAC would be amended in the future, in line with the ICES scientific advice.
- (10) On 13 March 2019, on the basis of a joint recommendation from the North Sea Member States Group, the Commission adopted a Delegated Regulation (EU) 2019/906 <sup>(4)</sup>. That Regulation sets out changes to *de minimis* exemptions from the landing obligation provided for in point (c) of Article 15(5) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council <sup>(5)</sup> for whiting and cod (*Gadus morhua*), as larger amounts of unwanted catches of those species will be subject to the landing obligation and no longer exempted from that obligation. The relevant TACs should therefore be amended to reflect those changes, and should continue to be set in line with the  $F_{MSY}$ . In accordance with Article 5 of Council Regulation (EC) No 1224/2009 <sup>(6)</sup>, Member States are to ensure the effective control of the landing obligation, thus preventing an increase in the fishing pressure on the stocks concerned.
- (11) At its 21st special meeting in 2018, the International Commission for the Conservation of Atlantic Tunas (ICCAT) adopted Recommendation 18-02 establishing a multiannual management plan for bluefin tuna in the eastern Atlantic and the Mediterranean. That management plan follows the advice from the Standing Committee on Research and Statistics to establish a multiannual management plan for the stock in 2018, since the current status of the stock no longer requires the emergency measures introduced under the recovery plan for bluefin tuna (Recommendation 17-17 amending Recommendation 14-04). The management plan takes into account the specificities of the different types of gear and fishing techniques. Therefore, it is appropriate to revise the provisions on effort limits and maximum input in tuna farms.

<sup>(4)</sup> Commission Delegated Regulation (EU) 2019/906 of 13 March 2019 amending Delegated Regulation (EU) 2018/2035 specifying details of implementation of the landing obligation for certain demersal fisheries in the North Sea for the period 2019-2021 (OJ L 145, 4.6.2019, p. 4).

<sup>(5)</sup> Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

<sup>(6)</sup> Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p. 1).

- (12) The catch limits provided for in Regulation (EU) 2019/124 apply from 1 January 2019. The provisions of this Regulation concerning catch limits should therefore also apply from that date. Such retroactive application is without prejudice to the principles of legal certainty and protection of legitimate expectations, as the fishing opportunities concerned have not yet been exhausted.
- (13) Regulation (EU) 2019/124 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EU) 2019/124 is amended as follows:

- (a) in Article 9, point (a) is deleted;
- (b) Annex IA is amended in accordance with the Annex to this Regulation;
- (c) Annex IIA is deleted;
- (d) Annex IV is amended in accordance with 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 2019.

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

Done at Luxembourg, 26 June 2019.

*For the Council*  
*The President*  
G.L. GAVRILESCU

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## ANNEX

## 1. Annex IA to Regulation (EU) 2019/124 is amended as follows:

- (1) The fishing opportunities table for anchovy in ICES subareas 9 and 10 and Union waters of CECAF 34.1.1 is replaced by the following:

Species:	Anchovy <i>Engraulis encrasicolus</i>	Zone:	9 and 10; Union waters of CECAF 34.1.1 (ANE/9/3411)
Spain	2 344 <sup>(1)</sup>		
Portugal	2 558 <sup>(1)</sup>		
Union	4 902 <sup>(1)</sup>		
TAC	4 902 <sup>(1)</sup>		Precautionary TAC

<sup>(1)</sup> The quota may only be fished from 1 July 2019 to 30 September 2019.

- (2) the fishing opportunities table for cod in ICES subarea 4 and Union waters of division 2a and that part of 3a not covered by the Skagerrak and Kattegat is replaced by the following:

Species:	Cod <i>Gadus morhua</i>	Zone:	4; Union waters of 2a; that part of 3a not covered by the Skagerrak and Kattegat (COD/2A3AX4)
Belgium	870 <sup>(1)</sup>		
Denmark	4 998 <sup>(1)</sup>		
Germany	3 169 <sup>(1)</sup>		
France	1 075 <sup>(1)</sup>		
The Netherlands	2 824 <sup>(1)</sup>		
Sweden	33 <sup>(1)</sup>		
United Kingdom	11 464 <sup>(1)</sup>		
Union	24 433 <sup>(1)</sup>		
Norway	5 004 <sup>(2)</sup>		
TAC	29 437		Analytical TAC

<sup>(1)</sup> Special condition: of which up to 5 % may be fished in: 7d (COD/\*07D).

<sup>(2)</sup> May be taken in Union waters. Catches taken within this quota are to be deducted from Norway's share of the TAC.

**Special condition:**

within the limits of the abovementioned quotas, no more than the quantities given below may be taken in the following zone:

Norwegian waters of 4 (COD/\*04N-)

Union	21 236'
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- (3) the fishing opportunities table for whiting ICES subarea 4 and Union waters of ICES division 2a is replaced by the following:

Species:	Whiting <i>Merlangius merlangus</i>	Zone:	4; Union waters of 2a (WHG/2AC4.)
Belgium	320		
Denmark	1 385		
Germany	360		
France	2 082		
The Netherlands	801		
Sweden	3		
United Kingdom	10 012		
Union	14 963		
Norway	1 219 <sup>(1)</sup>		
TAC	17 191		Analytical TAC Article 7(2) of this Regulation applies

<sup>(1)</sup> May be taken in Union waters. Catches taken within this quota are to be deducted from Norway's share of the TAC.

**Special condition:**

within the limits of the abovementioned quotas, no more than the quantities given below may be taken in the following zones:

Norwegian waters of 4 (WHG/\*04N-)

Union	10 881'
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- (4) the fishing opportunities table for whiting in ICES division 7a is replaced by the following:

Species:	Whiting <i>Merlangius merlangus</i>	Zone:	7a (WHG/07A.)
Belgium	3 <sup>(1)</sup>		
France	43 <sup>(1)</sup>		
Ireland	717 <sup>(1)</sup>		
The Netherlands	1 <sup>(1)</sup>		
United Kingdom	482 <sup>(1)</sup>		
Union	1 246 <sup>(1)</sup>		
TAC	1 246 <sup>(1)</sup>		Analytical TAC Article 8 of this Regulation applies

<sup>(1)</sup> Exclusively for by-catches of whiting in fisheries for other species. No directed fisheries for whiting are permitted under this quota.'

- (5) the fishing opportunities table for Norway lobster in ICES division 8c is replaced by the following:

<b>Species:</b>	Norway lobster <i>Nephrops norvegicus</i>	<b>Zone:</b>	8c (NEP/08C.)
Spain	2,7 <sup>(1)</sup>		
France	0,0 <sup>(1)</sup>		
Union	2,7 <sup>(1)</sup>		
TAC	2,7 <sup>(1)</sup>		Precautionary TAC

- <sup>(1)</sup> Exclusively for catches taken as part of a sentinel fishery to collect catch per unit effort (CPUE) data with vessels carrying observers on board:  
2 tonnes in functional unit 25 during five trips per month in August and September;  
0,7 tonnes in functional unit 31 during 7 days in July.'

- (6) the fishing opportunities table for Northern prawn in ICES division 3a is replaced by the following:

<b>Species:</b>	Northern prawn <i>Pandalus borealis</i>	<b>Zone:</b>	3a (PRA/03A.)
Denmark	1 497		
Sweden	807		
Union	2 304		
TAC	4 314		Analytical TAC'

- (7) the fishing opportunities table for saithe in ICES division 3a and subarea 4 and Union waters of division 2a is replaced by the following:

<b>Species:</b>	Saithe <i>Pollachius virens</i>	<b>Zone:</b>	3a and 4; Union waters of 2a (POK/2C3A4)
Belgium	33		
Denmark	3 865		
Germany	9 759		
France	22 967		
The Netherlands	98		
Sweden	531		
United Kingdom	7 482		
Union	44 735		
Norway	48 879 <sup>(1)</sup>		
TAC	93 614		Analytical TAC Article 7(2) of this Regulation applies

- <sup>(1)</sup> May only be taken in Union waters of 4 and in 3a (POK/\*3A4-C). Catches taken within this quota are to be deducted from Norway's share of the TAC.'

- (8) the fishing opportunities table for saithe in ICES subarea 6 and Union and international waters of 5b, 12 and 14 is replaced by the following:

<b>'Species:</b>		<b>Zone:</b>
Saithe <i>Pollachius virens</i>		6; Union and international waters of 5b, 12 and 14 (POK/56-14)
Germany	468	
France	4 650	
Ireland	418	
United Kingdom	3 237	
Union	8 773	
Norway	940 <sup>(1)</sup>	
TAC	9 713	Analytical TAC Article 7(2) of this Regulation applies

<sup>(1)</sup> To be fished north of 56°30' N (POK/\*5614N).'

- (9) the fishing opportunities table for sprat and associated by-catches in Union waters of 3a is replaced by the following:

<b>'Species:</b>		<b>Zone:</b>
Sprat and associated by-catches <i>Sprattus sprattus</i>		3a (SPR/03A.)
Denmark	17 840 <sup>(1)</sup> <sup>(2)</sup>	
Germany	37 <sup>(1)</sup> <sup>(2)</sup>	
Sweden	6 750 <sup>(1)</sup> <sup>(2)</sup>	
Union	24 627 <sup>(1)</sup>	
TAC	26 624	Precautionary TAC

<sup>(1)</sup> Up to 5 % of the quota may consist of by-catches of whiting and haddock (OTH/\*03A.). By-catches of whiting and haddock counted against the quota pursuant to this provision and by-catches of species counted against the quota pursuant to Article 15(8) of Regulation (EU) No 1380/2013 shall, together, not exceed 9 % of the quota.

<sup>(2)</sup> Transfers of this quota may be effected to Union waters of 2a and 4. However, such transfers shall be notified in advance to the Commission.'

- (10) the fishing opportunities table for sprat and associated by-catches in Union waters of 2a and 4 is replaced by the following:

<b>'Species:</b>	Sprat and associated by-catches <i>Sprattus sprattus</i>	<b>Zone:</b>	Union waters of 2a and 4 (SPR/2AC4-C)
Belgium	1 154 <sup>(1)</sup> <sup>(2)</sup>		
Denmark	91 347 <sup>(1)</sup> <sup>(2)</sup>		
Germany	1 154 <sup>(1)</sup> <sup>(2)</sup>		
France	1 154 <sup>(1)</sup> <sup>(2)</sup>		
The Netherlands	1 154 <sup>(1)</sup> <sup>(2)</sup>		
Sweden	1 330 <sup>(1)</sup> <sup>(2)</sup> <sup>(3)</sup>		
United Kingdom	3 809 <sup>(1)</sup> <sup>(2)</sup>		
Union	101 102 <sup>(1)</sup> <sup>(2)</sup>		
Norway	10 000 <sup>(1)</sup>		
Faroe Islands	1 000 <sup>(1)</sup> <sup>(4)</sup>		
TAC	112 102 <sup>(1)</sup>		Analytical TAC

<sup>(1)</sup> The quota may only be fished from 1 July 2019 to 30 June 2020.

<sup>(2)</sup> Up to 2 % of the quota may consist of by-catches of whiting (OTH/ \*2AC4C). By-catches of whiting counted against the quota pursuant to this provision and by-catches of species counted against the quota pursuant to Article 15(8) of Regulation (EU) No 1380/2013 shall, together, not exceed 9 % of the quota.

<sup>(3)</sup> Including sandeel.

<sup>(4)</sup> May contain up to 4 % of by-catch of herring.'

2. Annex IV to Regulation (EU) 2019/124 is amended as follows:

- (1) paragraph 4 is replaced by the following:

'Maximum number of fishing vessels of each Member State that may be authorised to fish for, retain on board, tranship, transport, or land bluefin tuna in the eastern Atlantic and Mediterranean'.

- (2) in paragraph 4, table B is deleted;

- (3) in paragraph 6, table B is replaced by the following:

'Table B <sup>(1)</sup>

Maximum input of wild caught bluefin tuna (in tonnes)	
Spain	6 300
Italy	3 764
Greece	785
Cyprus	2 195
Croatia	2 947
Malta	8 786
Portugal	350

<sup>(1)</sup> The total farming capacity of Portugal of 500 tonnes (corresponding to 350 tonnes of input farming capacity) is covered by the unused capacity of the Union set out in table A.'