

This document is an English translation of the complaint filed in French, available at:
<https://www.bloomassociation.org/wp-content/uploads/2019/09/Plainte18092019.pdf>

4. National measures suspected to infringe Union law

Please list the specific national measures (national law or other regulatory or administrative measures) you think are in breach of EU law and specify how they breach the EU law.

National measures suspected to infringe Union law:

The number of exemptions issued by the Netherlands allowing the use of electric trawling far exceeds the 5%-limit of the beam trawlers' fleet allowed by the EU during the transitional period.

The national measure(s) under which the Dutch authorities have granted exemptions from the ban on electric trawling during the transitional period expiring on 30 June 2021 have not been identified.

The system under which these derogations were granted appears to be particularly opaque, which probably facilitates the granting of a much higher number of derogations than that authorised by Annex V, Part D, of Regulation No 2019/1241.

EU law you think has been breached

EU laws (e.g. Treaties, regulations, directives, decisions) or principles underpinning EU law.

If you're not sure which EU law is involved, you can contact Your Europe Advice.

If you know it, please specify which EU law is concerned:

Regulation (EU) 2019/1241 is breached in two ways:

- Annex V, Part D; and
- Article 25, I, point (f).

5. Problem description

Please describe the problem (Describe the problem max of 7000 characters):

Regulation (EU) 2019/1241 entered into force on 14 August 2019. By way of derogation from Article 7(1)(b) - and subject to compliance with the provisions of Annex V, Part D - this Regulation authorises the use of electricity to catch marine organism until 1 July 2021 by a maximum of 5% of the beam trawlers' fleet of each Member State.

In addition to the fact that temporary derogations from this general prohibition are included in a Regulation which, as such, is binding in its entirety and directly applicable in any Member State, it is worth noting that the applicable rule was clearly recalled by Commissioner Karmenu Vella in response to a written question from MEP Tom Vandenkendelaere: "*During the transitional period ending 30 June 2021 no more than 5% of the beam trawler fleet per Member State may use this gear under the specific conditions in the Technical Measures regulation.*" (Annex 1).

Despite this clarification, Dutch Minister for Fisheries, Carola Schouten, announced on 15 May 2019, in a letter to the Dutch Parliament, that the Netherlands will not respect the maximum number of derogations allowed (Annex 2). She then claimed that:

- On the one hand, 5% of the Dutch beam trawler fleet corresponded to 22 vessels. However, the EU fleet register identifies 308 beam trawlers (code "TBB") as of 1 January 2019 (Annex 3), of which 285

are equipped as primary gear. The Dutch authorities should therefore issue a maximum of 15 derogations. Any derogation beyond these 15 is in breach of Annex V, Part D of Regulation (EU) 2019/1241;

- On the other hand, she claimed that it was legitimate to extend 20 derogations - due to expire on the date of entry into force of Regulation (EU) 2019/1241 - until 31 December 2019. To this end, Carola Schouten claimed once again that the purpose of these derogations were to carry out scientific research, even though she had stated in March 2018 that this had always been only an excuse.¹ According to the information in our possession, for the derogations allegedly granted in respect of scientific research, neither a specific scientific protocol has been put in place as part of a scientific research plan examined and validated by ICES or STECF, nor an appropriate monitoring, control and evaluation system, although this is expressly required by Article 25, 1°, point f), of Regulation No 2019/1241. These licences are therefore in breach - in addition to Annex V, Part D of Regulation (EU) 2019/1241 - of Article 25, 1, point f) of the same Regulation.

In total, 42 vessels will therefore continue to operate with electric trawls until 31 December 2019, well beyond the 15 regulatory limits (i.e. 280% of the regulatory framework). The Dutch fishermen's association Vissersbond² and the Dutch press³ have both confirmed this figure of 42 vessels at the end of August 2019.

L'État membre concerné reçoit-il (ou pourrait-il recevoir à l'avenir) un financement de l'UE en rapport avec l'objet de votre plainte ?

The Netherlands has received many public subsidies for the development of electric fishing. BLOOM had filed a complaint on this subject to the Anti-Fraud Office (Annex 4) on 13 June 2018. Our analysis of the detailed file of beneficiaries of the European Fisheries Fund (EFF) and the European Maritime and Fisheries Fund (EMFF) revealed that the Netherlands had received at least €21.5 million in public subsidies.⁴

In the light of what has happened so far, it cannot be ruled out that subsidies are no longer allocated to vessels engaged in this fishery. Investigations should be carried out on the subject.

¹ At the request of the European Commission, Carola Schouten, Minister for Fisheries in the Netherlands, explained the licences granted. She stated: "Even when it became clear that our scientific research had not started[their research], the Commission approved a third set of derogations". Source : <https://nos.nl/artikel/2224621-schouten-brussel-gaf-zelf-toestemming-voor-vergunningen-pulsvisserij.html>

² See the article from 29 août 2019 *Grote teleurstelling over Belgische besluit* : <https://www.vissersbond.nl/grote-teleurstelling-over-belgische-besluit/>

³ For example, an article from 30 August 2019 *De Noordoostpolder* : <https://denoordoostpolder.nl/artikel/1042216/pulsvloot-krimpt-verder-frankrijk-en-belgie-sluiten-12-mijlszone.html>

⁴ Le Manach *et al.* (2019) Public subsidies have supported the development of electric trawling in Europe. *Marine Policy* 104, 225–231 Available at: <https://www.sciencedirect.com/science/article/pii/S0308597X18308819>.