

Ms Charlina Vitcheva

Director General
Directorate General Maritime Affairs
and Fisheries
Rue de la Loi 200
1049 Brussels
BELGIUM

Date: 25 January 2024

PelAC reference: 2324PAC14

Subject: Consultation on emergency measures FR for cetacean bycatch in Bay of Biscay

Dear Ms. Charlina Vitcheva,

On behalf of its members, the Pelagic Advisory Council (PelAC) wishes to bring an urgent concern to your attention.

On 8 January 2024, both the SWWAC and the PelAC were made aware of the French request to the European Commission to introduce an emergency measure, implementing a time-area closure from 22 January to 20 February 2024 in the Bay of Biscay for all vessels over 8 meters, in an effort to reduce the mortality of cetaceans bycaught in fishing gears considered 'high risk' (i.e. OTM, PTM, PTB, GTR, GNS, PS). This decision was taken on the basis of article 13 of the CFP. Consequently, the aforementioned measures would apply in French waters up to the outer limit of the EEZ in ICES sub-area 8 to all flags, in order to ensure the effectiveness of this measure.

On 18 January 2024, a French decree establishing the same spatial-temporal bycatch protection measures was published, and concerns all the EU fishing fleets. This decree makes reference to having consulted the relevant Advisory Councils. The PelAC wishes to formally react on the procedure regarding this issue.

We wish to draw your attention to article 13 (2) of the CFP, which states that when a Member State adopts emergency measures which impact fishing activities of other Member States *"such measures shall be adopted only after consulting the Commission, the relevant Member States and **the relevant Advisory Councils** on a draft of the measures **accompanied by an explanatory memorandum**. The consulting Member State may set a reasonable deadline for the consultation **which shall, however, not be shorter than one month.**"*

The PelAC has not been formally consulted on these measures as mentioned in the French decree, nor has it received an explanatory memorandum. Moreover, it should be noted that in this case the minimum notice period of one month has not been respected considering the planned implementation date set for 22 January 2024.





The PelAC considers that the short notice period and the lack of consultation could be a serious breach of the CFP, with significant ramifications for EU vessels and others operating in these fishing areas. We therefore call on the Commission to take this into serious consideration.

The PelAC remains at your full disposal to discuss this matter in more detail and provide input following ICES.

We thank you in advance for your kind consideration of the above, and look forward to your response.

Sincerely yours,

Sean O'Donoghue
Chairman Pelagic AC

