

ILLEGAL UNREPORTED AND UNREGULATED FISHING IN THE BLACK SEA

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Abstract: *The article examines the legal fight against the illegal, unreported and unregulated (IUU) fishing in the EU, particularly in the Black Sea. At international level the term was first mentioned in 1992, then in 2001 in the framework of FAO there was a broader definition adopted. The article pays attention to the EU secondary legislative acts, certification system and sanctions regime. The IUU fishing is a complex, multi-faceted and dynamic problem. Recent statistical data shows that the amount of money of the illegal, unreported and unregulated fishing is between 9 and 24 billion U.S. dollars per year. IUU fishing has serious biological, economic and social consequences. The author concludes that the fight against IUU fishing requires efforts of coastal States, efforts of regional organizations as well as efforts by the whole international community.*

Keywords: IUU fishing, Black Sea, EU

1. Introduction

Illegal, unreported and unregulated (IUU) fishing is a complex, multi-faceted and dynamic problem. It requires the united efforts of the entire international community, regional organizations and governments.

Recent statistical data shows that the amount of money of the illegal, unreported and unregulated fishing is between 9 and 24 billion U.S. dollars per year [1]. In addition to that, IUU fishing has serious biological, economic and social consequences. IUU fishing depletes fish stocks, destroys marine habitats, distorts competition, puts honest fishermen at an unfair disadvantage, and weakens coastal communities, particularly in developing countries.

The Black Sea has been subjected to very serious environmental impacts since mid 20th century due to huge chemical pollution mainly via Danube River, invasive species, nuclear pollution, climate change, overfishing and IUU fishing.

After the accession of Bulgaria and Romania to the European Union, the Black Sea has become the sovereign responsibility of Common Fishery Policy of EU and General Fisheries Commission for the Mediterranean (GFCM).

2. Definition of IUU fishing according to International Law

The term “illegal, unreported and unregulated fishing” was first mentioned in 1992 at the United Nations conference on environment and development.

The International Plan of Action to prevent, deter and eliminate IUU fishing, which was adopted by United Nations Food and Agriculture Organization in 2001, gives a broader definition:

Illegal – in an exclusive economic zone (EEZ) illegal fishing is determined as the one that is performed without a license issued by the coastal state or in violation of its national laws. In the high sea, this is the fishing that is carried out without a license

by the competent Regional Fisheries Management Organization (RFMO) or without complying with its management rules or undertaken international obligations.

This can apply to fisheries that are under the jurisdiction of a coastal state or to high seas fisheries regulated by Regional Fisheries Management Organisations. According to FAO Fisheries and Aquaculture Department, illegal fishing has caused losses worth US\$23 billion per year with about 30 percent of illegal fishing in the world occurring only in Indonesia, the vast archipelago country.

Unreported – Any fishing activity should be reported to the flag state and the competent authority in the area where the fishing is performed, namely the coastal state in a given EEZ or RFMO in the high sea. In the absence of such notification, the fishery is unreported and the amount of catches cannot be reported within the frameworks of the management of fisheries resources.

Unregulated – In the area of the high seas, which comes under the remit of a given RFMO, unregulated fishing is the one that is carried out by a vessel of a State that is not a member of this RFMO, or by a ship without a flag, which does not comply with its management rules. Such is the fishing in stocks or fishing in areas in the High seas that are not subjected to certain management rules. This type of fishing is implemented in a manner that is inconsistent with the responsibilities of the states with respect to the fisheries resources conservation under international law [2].

The driving force behind illegal, unreported and unregulated fishing is similar to those behind many other types of international environmental crime: pirate fishers have a strong economic incentive - many species of fish, particularly those that have been over-exploited and are thus in short supply, are of high financial value.

Such IUU activity may then show a high chance of success – i.e. a high rate of

return – from the failure of governments to regulate adequately (e.g. inadequate coverage of international agreements), or to enforce national or international laws (e.g. because of lack of capacity, or poor levels of governance). A particular driver behind IUU fishing is the failure of a number of flag states to exercise effective regulation over ships on their registers — which in turn creates an incentive for ships to register under these flags of convenience [3].

3. IUU fishing in the secondary legislation of the European Union

The EU played an active role in drawing up the FAO's international plan of action to prevent, deter and eliminate IUU fishing, endorsed by the FAO Council in June 2001. The EU then proceeded to develop its own plan to implement the commitments agreed at international level, and the European Commission's Action plan for the eradication of IUU fishing was published in May 2002. It is intended to be implemented at four levels:

At the EU level, more responsibility will be requested with regard to member state nationals acting under a flag of convenience. Moreover, market measures concerning fisheries products caught in violation of the international agreements will be adopted. In addition, information actions addressed to the fishing industry, consumers, and the public will be launched to raise their awareness.

In the framework of Regional Fisheries Management Organisations, control and inspection plans would be adopted as well as specific conservation and management measures. In addition, IUU vessels would be identified and monitored and their catches would be quantified.

At the international level, concepts like genuine link would be defined, and a number of rights and obligations of the port state would be established. Moreover, the exchange of information on IUU activities and the international co-operation would be strengthened.

In partnership with developing countries, the necessary means would be provided to enable them to effectively control fishing activities undertaken in waters under their jurisdiction.

The **EU Regulation to prevent, deter and eliminate illegal, unreported and unregulated fishing entered into force on 1 January 2010**. The Commission is working actively with all stakeholders to ensure coherent application of the IUU Regulation.

A unique component of the fisheries policy is a separate legislation to conserve marine biological resources, which refers to the areas of exclusive competence of the European Union. The main document is **Council Regulation (EC) No 2371/2002** of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy.

The EU legislative framework on IUU fishing follows the definition laid down by **FAO. Article 2 of Council Regulation (EC) No 1005/2008** states:

“Illegal Fishing” means fishing activities:

- a) *conducted by national or foreign fishing vessels in maritime waters under the jurisdiction of a State, without the permission of that State, or in contravention of its laws and regulations;*
- b) *conducted by fishing vessels flying the flag of States that are contracting parties to a relevant regional fisheries management organization, but which operate in contravention of the conservation and management measures adopted by that organization and by which those States are bound, or of relevant provisions of the applicable international law; or*
- c) *conducted by fishing vessels in violation of national laws or international obligations, including those undertaken by cooperating States to a relevant regional fisheries management organization.*

“Unreported fishing” means fishing activities:

- a) *which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; or*
- b) *which have been undertaken in the area of competence of a relevant regional fisheries management organization and have not been reported, or have been misreported, in contravention of the reporting procedures of that organization;*

“Unregulated fishing” means fishing activities:

- a) *conducted in the area of application of a relevant regional fisheries management organization by fishing vessels without nationality, by fishing vessels flying the flag of a State not party to that organization or by any other fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organization; or*
- b) *conducted in areas or for fish stocks in relation to which there are no applicable conservation or management measures by fishing vessels in a manner that is not consistent with State responsibilities for the conservation of living marine resources under international law.*

The second important document is **Commission Regulation (EC) No 1010/2009** of 22 October 2009 which is laying down detailed rules for the implementation of Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing.

4. Fight against IUU Fishing in the European Union

A. Certification, Traceability and Inspection

The marine aquaculture production for the previous decade was estimated as low, as Turkey and Ukraine hold the first places as

regards total aquaculture production in Black Sea region.

The Bulgarian and Romanian Annual Reports on the Efforts to Achieve a Sustainable Balance between Fishing Capacity and Fishing Opportunity during 2008 are prepared in accordance with the rules laid down in the Council Regulation (EC) No 2371/2002, Commission Regulation (EC) No 1438/2002 and Guidelines for an improved analysis of the balance between fishing capacity and fishing opportunities.

The basis of the measures to fight IUU fishing within the European Union is a developed **certification system** by which the state under whose flag a fishing boat is sailing, certifies compliance with the terms of catch.

Also, the EU Member States exercise control over the legality of the products regardless of the means by which they entered the territory (ship, truck, train, plane, etc.).

B. Sanctions Regime

On suspicion related to a vessel, a warning system in the Community triggers; it allows to **inform** the other Member States about the suspicions against this vessel. If the vessel is charged with illegal fishing, it fits into the **blacklist** of the Community published on the website of the European Commission. This leads to a ban on all operations connected with the transit pass, loading and unloading at all ports in the European Union. For a country that supports illegal fishing, the European Regulation provides a series of **countermeasures** which may extend to a ban on imports of fishery products from the relevant State in the European Union.

5. Fight against IUU fishing in the Black Sea

Illegal, unreported and unregulated fishing is one of the most serious threats to the Black Sea as well. During the period 1992 – 2012 a total of 65 cases of illegal fishing in different EEZs in the Black Sea were reported [4].

A main object of IUU fishing in the Black Sea is the turbot but other species such as anchovy/sprat, skip jack, sprat, scad, belted bonito, sardine, scad, mullet, whiting, surmullet, shells and sturgeon are also threatened.

The fight against IUU fishing in the Black Sea requires joint efforts of the Commission for Protection of the Black Sea against Pollution and General Fisheries Commission for the Mediterranean (GFCM) for sustainable development of aquacultures.

New development measures against IUU fishing have been obtained after 2007 when Bulgaria and Romania joined the European Union and started implementing the common fisheries policy.

The main share of IUU fishing in the Black Sea belongs to Turkish fishermen. This is a fact noted and confirmed by the General Fisheries Commission for the Mediterranean in 2012 [5]. Recent cases of illegal fishing by Turkish fishermen were reported by the Russian Federation and Bulgaria.

Another serious problem that is related to IUU fishing in the Black Sea is the so called **accompanying species catch**.

Pursuing turbot or sturgeon fish catch (which are generally endangered species under the special protection of the Turkish legislation), every year a large number of dolphins are entangled in the nets of fishermen in the Turkey's Black Sea region.

A very brutal crime in the Black Sea waters is so called **ghost fishing**, when fishermen throw their nets into the sea, trying to flee at the sight of the patrol vessels of the coastal guard or other competent authorities [6]. A lot of organisms such as sharks, skates and dolphins entangle in cast nets. Later these organisms die in a direction toward the shore or sink to the bottom.

In conclusion, the fight against IUU fishing requires efforts of coastal States, efforts of regional organizations, as well as efforts by the whole international community. Yet, it must be remembered that 70,8 % (361 132

million sq. km.) of the surface of the planet Earth is an aqueous surface, making it a unique phenomenon in the solar system and the humankind has a duty to save marine

and biological resources for the future generations.

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