



14.2.2023

NOTICE TO MEMBERS

Subject: Petition No 0615/2022 by P.O.S. (Spanish) on the protection of endangered porpoises in the Baltic Sea

1. Summary of petition

The petitioner expresses concern about the vulnerable situation of harbour porpoises in the Baltic Sea, as this is a critically endangered species that needs urgent protection. He believes that the two main threats to this species are bycatches or incidental catches, and underwater noise associated with undersea military activities. He calls for bycatches to be prevented and for underwater noise levels to be reduced in Marine Protected Areas (MPAs) so that these can become the safe havens that the porpoises need.

2. Admissibility

Declared admissible on 28 October 2022. Information requested from Commission under Rule 227(6).

3. Commission reply, received on 14 February 2023

The Commission's observations

Concerning bycatch of the harbour porpoises, the Commission recently adopted Delegated Regulation (EU) 2022/303 on the measures to reduce incidental catches of the Baltic Proper harbour porpoise in the Baltic Sea¹. This Regulation includes closures of Natura 2000 areas in the Baltic Sea for some types of static fishing gear and the obligatory use of acoustic deterrent devices on static nets in specific areas in Polish and Swedish waters. It entered into force in

¹ Commission Delegated Regulation (EU) 2022/303 of 15 December 2021 amending Regulation (EU) 2019/1241 as regards measures to reduce incidental catches of the resident population of the Baltic Proper harbour porpoise (*Phocoena phocoena*) in the Baltic Sea, *OJ L 46*, 25.2.2022, p. 67–80.

February 2022 and it aims to increase the protection of these critically endangered marine mammals. Scientists advise² to install acoustic deterrent devices on static nets preventing entanglement of porpoise in these nets. However, under the current geopolitical situation in the Baltic Sea, Member States are concerned that these devices disturb their underwater surveillance systems. The Commission therefore called on Baltic Sea Member States to continue their joint effort on the matter and submit a new Joint Recommendation including additional measures as to cover all areas in the Baltic Sea. The Commission has also initiated legal action against Sweden for the lack of necessary measures to monitor and prevent bycatch of the harbour porpoise as required by the Habitats Directive³. The Commission is working closely with the Baltic Member States on the preparation of a new joint recommendation to be implemented through a delegated act. Finally, the Commission will soon publish an action plan to conserve fisheries resources and protect marine ecosystems, one of the deliverables of the EU Biodiversity Strategy for 2030, with additional measures to address bycatch of sensitive species.

Concerning the impact of underwater noise, the Marine Strategy Framework Directive (MSFD)⁴ identifies anthropogenic inputs of substance and energy into the marine environment, like underwater noise, as pollution. A specific qualitative descriptor has been developed to define good environmental status related to underwater noise (descriptor 11). A Technical Group (TG) on underwater noise was set up in 2011 to steer the work and advise EU Member States on the operational implementation of descriptor 11. Since 2017, TG Noise is focussing on the assessments of impacts of noise and the development of thresholds in relation to the indicators developed in the framework of the MSFD. In that regard, EU experts recently (2022) adopted recommendations on maximum acceptable levels for impulsive (for example from oil and gas exploration and extraction) and continuous (such as from shipping) underwater noise.

Conclusion

The Commission is already taking decisive action under EU environmental and fisheries policy to improve the situation and to address the impacts of bycatch and underwater noise on the harbour porpoise.

The petitioner can address his/her concerns to the specific regional body BaltFish, where Lithuania currently holds the Presidency, in charge of identifying protection and mitigation measures, as well as to the Member States' authorities.

² ICES. 2020. EU request on emergency measures to prevent bycatch of common dolphin (*Delphinus delphis*) and Baltic Proper harbour porpoise (*Phocoena phocoena*) in the Northeast Atlantic. In Report of the ICES Advisory Committee, 2020. ICES Advice 2020, eu.2.

³ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora OJ L 206, 22.7.1992, p. 7–50.

⁴ Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive), OJ L 164, 25.6.2008, p. 19–40.