

November 2016

# The control and enforcement of fisheries in Poland

## Contents

Executive summary and recommendations.....	3
Introduction: the Polish legal framework for fisheries controls and enforcement.....	4
1. The Polish fisheries enforcement framework .....	5
1.1. Competent authorities .....	5
1.2. Organisation of fisheries controls in Poland.....	7
1.3. Serious infringements of the CFP rules .....	8
1.3.1. Determination of what constitutes a serious infringement.....	8
1.3.2 The penalty point system.....	8
1.3.3 The point system for operators .....	8
1.3.4 The point system for masters .....	9
1.3.5. Financial sanctions.....	10
1.3.6. Accompanying sanctions.....	11
2. The national register of infringements.....	12
3. What is happening in practice.....	13
3.1. Data on the National Control Action Programme .....	13
3.2. Data on infringements .....	14
3.2.1 Data on infringements from the District Inspectorate of Marine Fisheries in Szczecin.....	14
3.2.2 Data on infringements from the District Inspectorate of Marine Fisheries in Słupsk .....	14
3.2.3 Data on infringements from the District Inspectorate of Marine Fisheries in Gdynia.....	15
4. Discussions and recommendations .....	17
Conclusion .....	19
Annex 1.....	20
Bibliography .....	26

## Executive summary and recommendations

In 2009, the European Union (EU) adopted a new regulation, the "Control Regulation", to establish general rules and principles governing the control of fisheries across its Member States. This regulation entered into force in 2010. It places a number of enforcement obligations on Member States' competent authorities:

- Ensuring that appropriate measures are taken for every breach of the rules of the Common Fisheries Policy (CFP)
- Imposing sanctions which are effectively dissuasive in case of serious infringements
- Establishing a penalty point system for licence holders and masters of fishing vessels who commit a serious infringement of the rules of the CFP
- Entering into a national register of infringements all infringements of the rules of the CFP

This report examines the Polish fisheries enforcement framework and its implementation in light of the requirements of the Control Regulation. It presents an overview of the Polish control system for fisheries and a detailed analysis of the enforcement system with a focus on the implementation of the sanctions scheme and of the penalty point system. It also assesses transparency and access to information concerning fisheries enforcement matters. It concludes by highlighting improvements in the fisheries enforcement system achieved through the recent legal reform and notes concerns regarding remaining issues. In this respect, a 2009 report on the enforcement of the Polish fisheries control system helped us in identifying remaining issues. This report, "Survey of institutions responsible for inspecting Polish fisheries in the Baltic Sea"<sup>1</sup> was prepared by the Fisheries Secretariat in collaboration with the Green Federation GAJA (Federacja Zielonych GAJA). Its purpose was to present observations and describe inaccuracies and weaknesses both in management of Baltic fisheries and in the Polish system for monitoring and controlling fisheries in the Baltic Sea.

## Recommendations

- Quality and efficiency of inspections needs to be ensured: data analysed indicated a surprisingly low number of detected infringements in comparison to inspections conducted. This could potentially indicate that the authorities report inspections which are not comprehensive and effective enough to detect infringements, and therefore that the Control Regulation's requirements to detect breaches of the CFP's rules and impose dissuasive sanctions are not being met.
- Establish guidance and carry out trainings on the use of administrative sanctions. Since the new Polish legal framework on marine fisheries came into force in 2015, there were no serious infringements of the CFP provisions established. This may be because the new regulations are not understood by the authorities in charge of applying the sanctions, but it also could be because political will is lacking to effectively implement them. If Poland does not address this it could face infringement proceedings from the European Commission.
- Increase transparency in the availability and reliability of implementation data. Not only is most of the data related to control and enforcement not publically available, it

---

<sup>1</sup> Survey of institutions responsible for inspecting polish fisheries in the Baltic Sea-report, Federacja Zielonych Gaja, Szczecin 2009, available at: [http://www.fishsec.org/app/uploads/2011/03/1291914401\\_41763.pdf](http://www.fishsec.org/app/uploads/2011/03/1291914401_41763.pdf).

also lacks consolidation. In addition, although the national register of infringements is in place, it is not publicly accessible. This stands in contradiction with the transparency requirements as laid down in the CFP Regulation and should be remedied.

- The legal framework should be simplified. Although an enforcement framework has been put in place, it is overly complicated and misleading with a number of cross-references (or lack of thereof) which make the Polish enforcement legislation inconsistent with itself. These inconsistencies should be addressed and the legal framework simplified and clarified for all stakeholders.

## Introduction

Several pieces of EU legislation govern the organisation of fisheries controls and enforcement in Poland: the Illegal, Unreported and Unregulated (IUU)<sup>2</sup> and Control Regulations,<sup>3</sup> the Control Regulation Implementing Regulation<sup>4</sup> and the Commission Implementing Decision establishing a specific control and inspection programme for fisheries exploiting cod, herring, salmon and sprat in the Baltic Sea.<sup>5</sup> These regulations are binding in their entirety and directly applicable in Poland. Concretely, this means that the regulations are part of the Polish national legal system without the need for transposition through national legal measures. However, Poland, just like any other Member State, may need to modify its national laws in order to comply with the obligations contained in these regulations, or may need to adopt complementary legal measures in order to give full effect to the requirements set out in these texts. This does not alter the fact that the regulations themselves have direct legal effect in Poland. As a result, no measures should be passed that contradict the IUU and Control Regulations.<sup>6</sup>

In order to implement the obligations stemming from the EU regulations, Poland repealed its Fisheries Act of 2004 and introduced, on 19 December 2014, a new Marine Fisheries Act, which came into force on 4 March 2015. This Polish Marine Fisheries Act of 19 December 2014<sup>7</sup> (hereinafter referred to as the “2014 Act”) is the main piece of legislation setting out the rules applicable to fisheries, including the competences of the authorities relating to the issuance, withdrawal and suspension of documents allowing for the conduct of fishing activities, as well as rules relating to the monitoring and control of fisheries, landings and transshipments of living marine resources. In addition, more detailed provisions are laid down in several implementing regulations, which were adopted by the Polish Minister of Agriculture and Rural Development together with the new Act:

---

2 Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing.

3 Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy.

4 Commission Implementing Regulation (EC) No 404/2011 of 8 April 2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy.

5 Commission Implementing Decision of 21 June 2013 establishing a specific control and inspection programme for fisheries exploiting cod, herring, salmon and sprat in the Baltic Sea (2013/305/EU).

6 P.Craig, G. de Búrca, EU Law: Text, Cases and Materials, Sixth Edition, Oxford University Press, p.107.

7 Ustawa z dnia 19 grudnia 2014 r. o rybołówstwie morskim, available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20150000222>.

- The Regulation of the Minister of Agriculture and Rural Development of 26 August 2015 which establishes the criteria upon which the gravity of an infringement of the rules of the CFP is to be determined;<sup>8</sup>
- The Regulation of the Minister of Agriculture and Rural Development of 26 August 2015 which determines the level of financial sanctions for serious infringements of the rules of the CFP.<sup>9</sup>
- The Regulation of the Minister of Agriculture and Rural Development of 18 September 2015 which determines the level of financial sanctions for other infringements of the rules of the CFP or of the Polish marine fisheries legislation.<sup>10</sup>

In accordance with Article 46 of the Control Regulation, the Polish competent authorities also have to define a national control action programme for each multiannual plan implemented in Poland. Such plans are established in accordance with the specific inspection benchmarks laid down in Annex 1 of the Control Regulation. As a result, Poland, as a Baltic Sea country, is bound by the Commission Implementing Decision establishing a specific control and inspection programme for fisheries exploiting cod, herring, salmon and sprat in the Baltic Sea. Therefore, Poland implements the obligations arising from these specific provisions by adopting every year a Polish National Control Programme for the Baltic Sea.

## 1. The Polish fisheries enforcement framework

In this section, we examine the Polish institutional framework for fisheries controls and inspections and detail the regulations applicable in cases of serious infringements and to implement the penalty point system in Poland.

### 1.1. Competent authorities

Fisheries fall under the scope of the Ministry of the Maritime Economy and Inland Navigation, established by the implementing act - Regulation of 7 December 2015 concerning the creation of the Maritime Economy and Inland Navigation Ministry. The Ministry is headed by the Minister of Maritime Economy and Inland Navigation, and the Fisheries Department of the Ministry is directly responsible for fulfilling the tasks of the Minister. Prior to this reform, the Polish Ministry of Agriculture and Rural Development was in charge of marine fisheries.

The Ministry of Maritime Economy and Inland Navigation can delegate some of its competences concerning Marine Fisheries to other decentralised structures, namely the District Inspectorates of Marine Fisheries. These authorities function on the basis of Articles 100 - 114 of the 2014 Act and perform their tasks with the help of District Inspectors of Marine Fisheries. They are directly responsible for monitoring compliance with the obligations arising from the relevant laws on marine fisheries. The Minister of Maritime Economy and Inland Navigations coordinates their tasks.

---

8 Rozporządzenie Ministra Rolnictwa i Rozwoju Wsi z dnia 26 sierpnia 2015 r. w sprawie kryteriów, na podstawie których okręgowy inspektor rybołówstwa morskiego dokonuje oceny wagi stwierdzonego naruszenia przepisów wspólnej polityki rybołówstwa, available at: <http://dziennikustaw.gov.pl/DU/2015/1453/1>.

9 Rozporządzenie Ministra Rolnictwa i Rozwoju Wsi z dnia 26 sierpnia 2015 r. w sprawie wysokości kar pieniężnych za poważne naruszenia przepisów wspólnej polityki rybołówstwa, available at: <http://dziennikustaw.gov.pl/DU/2015/1455/1>.

10 Rozporządzenie Ministra i Rozwoju Wsi z dnia 18 września 2015 r. w sprawie wysokości kar pieniężnych za naruszenia przepisów o rybołówstwie morskim, available at: <http://dziennikustaw.gov.pl/du/2015/1661>.

There are three District Inspectors and, respectively, three supporting Inspectorates of Marine Fisheries in Poland: one each in Szczecin, Słupsk and Gdynia.<sup>11</sup> Each of them supervises a number of field inspectorates led by Field Inspectors, which help the District Inspectorates in executing their tasks on the ground.

The District Inspectors' tasks include:

- The supervision of compliance with the provisions laid down in the marine fisheries and fisheries market regulations
- The conduction of inspections and controls in accordance with the IUU and Control Regulations
- The evaluation of the gravity of infringements committed under the framework of the EU control system
- The imposition of financial sanctions for infringements of the provisions of the marine fisheries and fisheries market regulations
- The assignment of points for serious infringements of the rules of the CFP<sup>12</sup>

Inspections are conducted at sea and in ports, and inspectors' current priorities are to:

- Ensure compliance of vessels participating in fisheries exploiting cod, herring, salmon and sprat in the Baltic Sea, which are subject to a specific control and inspection programme (SCIP) established by the Commission Implementing Decision of 21 June 2013
- Ensure compliance of fishing vessels which land cod, Atlantic herring, salmon and sprat, subject to a SCIP established by the Commission Implementing Decision of 21 June 2013
- Ensure compliance of fishing vessels at sea, particularly setting and hauling of fishing gears used for cod, Atlantic herring, salmon and sprat catches, which are subject to a SCIP established by the Commission Implementing Decision of 21 June 2013
- Ensure compliance of fishing vessels targeting pelagic species, particularly when there is higher possibility of cod by-catch, and vessels used for sport and recreational fishing
- Compliance with rules related to transport and purchase of fishery products, with special attention to species covered by the landing obligation, and in particular catches which are below the minimum conservation reference size
- Verify the fishing vessels' engine power
- Control of the compliance with provisions pertaining to product traceability during fishing, landing, transport, storage and first sale

The Polish National Control Programme indicates that 48 inspectors are engaged directly in control at sea and in ports: 18 work in the area of Gdynia Inspectorate, 18 in the area of Słupsk Inspectorate and 12 in the area of Szczecin Inspectorate. There are 10 patrol vessels and 22 cars, of which 2 patrol vessels and 9 cars are used in the area of Gdynia Inspectorate, 2 patrol

---

<sup>11</sup> Rozporządzenie Ministra Rolnictwa i Rozwoju Wsi z dnia 24 września 2004r. w sprawie siedzib i terytorialnego zakresu działania inspektorów rybołówstwa morskiego, available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20042232267>. The District Inspectorate of Marine Fisheries in Szczecin has field inspectorates in Świnoujście, Dziwnów, Wolin, Trzebieża and Mrzeżyn. Słupsk has field inspectorates in Kołobrzeg, Darłowo, Ustka and Łeba and Gdynia has field inspectorates in Hel, Władysławowo, Frombork and Sztutowo.

<sup>12</sup> Article 107 of the 2014 Act.

vessels and 7 cars in the area of Słupsk Inspectorate and 5 patrol vessels and 6 cars in the area of Szczecin.<sup>13</sup>

In addition, the national Polish Fisheries Monitoring Centre (FMC) or "Centrum Monitorowania Rybołówstwa" has been established in Gdynia as a field unit of the Fisheries Department under the Ministry of the Maritime Economy and Inland Navigation in Warsaw. It was founded in 2003 and started to function in 2004. This centre has been designated as the FMC under the EU Control Regulation and is in charge of collecting and processing Vessel Monitoring System (VMS) and Electronic Recording and Reporting System (ERS) data.<sup>14</sup>

## 1.2. Organisation of fisheries controls in Poland

In the 2016 Polish national control programme for the Baltic Sea, a particular focus was put on the control of fish holds on vessels. This emphasis is put on vessels fishing for and landing cod, Atlantic herring, salmon and sprat as these vessels are subject to the landing obligation for these stocks. The other vessels are also the subject of this focus.

Under this plan, monitoring also encompasses the transport and sale of cod, Atlantic herring, salmon, and sprat. In order to optimise the use of inspections, a risk analysis was applied in accordance with the Commission Implementing Decision of 21 June 2013.

The level of inspection at sea amounts to 200 days of control (with the established minimum of days for the District Inspectorate on marine fisheries in Gdynia being 80 days, for Słupsk 60 days and for Szczecin 60 days) in order to conduct inspections on:

- At least 0.25% of the fishing trips conducted by fishing vessels of a very low, low or medium- level risk;
- At least 2.5% of the fishing trips conducted by fishing vessels of a high risk;
- At least 5% of the fishing trips conducted by fishing vessels of a very high risk.

The level of inspection in Polish ports for landings and first sales of fishery products also depends largely on the profile of the fishing vessels.<sup>15</sup>

In addition, Polish inspectors participate to the Joint Deployment Plan (JDP) coordinated by the European Fisheries Control Agency (EFCA) in the Baltic Sea.<sup>16</sup>

In order to strengthen control activities in the coming years, the Minister pledged to use financial resources under the Polish Operational Programme for Fisheries to deliver its control and enforcement priorities. To improve and harmonise control procedures with respect to fisheries, a

---

13 Ibid.

14 Website of the Polish Fisheries Monitoring Centre: <http://www.cmr.gov.pl/index.php>.

15 The specific numbers are: (i) inspection of at least 2% of the total fish round weight subject to the SCIP for fisheries exploiting cod, herring, salmon and sprat in the Baltic Sea, landed by fishing vessels of a very low, low and medium-level risk; (ii) inspection of at least 10% of the total fish round weight subject to the SCIP for fisheries exploiting cod, herring, salmon and sprat in the Baltic Sea, landed by fishing vessels of a high-level risk; (iii) inspection of at least 15% of the total fish round weight subject to the SCIP for fisheries exploiting cod, herring, salmon and sprat in the Baltic Sea, landed by fishing vessels of a very high level risk; (iv) inspection of at least 20% of the total fish round weight of all cod landings; (v) inspections of at least 3% of the total fish round weight coming from unsorted catches; (vi) inspections relating to fisheries markets: at least 150 inspections of the warehouses and means of transport and inspections of at least 5% of the total cod round weight, Atlantic herring, salmon and sprat at the stage of the first sale, transport and warehousing.

16 Polski Krajowy Program Kontroli na Morzu Bałtyckim na 2016 r., op.cit.

change in the functioning of the Polish control administration is planned. It will be carried out by bringing the current control services together and by establishing only one inspectorate of marine fisheries.<sup>17</sup>

### 1.3. Serious infringements of the CFP rules

#### 1.3.1. Determination of what constitutes a serious infringement

Article 79 of the 2014 Act deals with serious infringements of the CFP rules. It refers directly to the definition in Article 42(1) of the IUU Regulation of the categories of serious infringements. Twelve categories of serious infringements are included in Annex XXX of the Control Regulation Implementing Regulation. The list of infringements enshrined in Polish law is more detailed but it nevertheless includes all the categories of infringements mentioned in the EU legislation.

The criteria on which the gravity of the infringement can be determined are found in the Regulation of the Minister of Agriculture and Rural Development of 26 August 2015, and are reproduced in an Annex to this case study. Note that these criteria have to be cumulatively fulfilled in order for an infringement to be declared serious.

#### 1.3.2 The penalty point system

Under Article 92 of the Control Regulation, Member States shall apply a penalty point system for serious infringements to fishing licence holders and to masters of fishing vessels. Although the point system for licence holders is largely detailed in EU regulations, very little is said about the design of the point system for masters. The Control Regulation simply states that: *"Member States shall also establish a point system under which the master of a vessel is assigned the appropriate number of points as a result of a serious infringement of the rules of the Common Fisheries Policy committed by him"*.<sup>18</sup>

Polish provisions on the penalty point system provide for the attribution of points for committing a serious infringement to the operator and to the master of the fishing vessel.<sup>19</sup> The wording of these provisions slightly differs from the one used in the Control Regulation, which foresees the application of the penalty point system to 'holders of a fishing licence' and to 'masters of a vessel'.<sup>20</sup>

#### 1.3.3 The point system for operators

The assignment of points to an operator is made through a decision of the Polish competent authorities, namely a District Inspector of Marine Fisheries.<sup>21</sup> Through the same decision, the Inspector also imposes a financial sanction to the offender.<sup>22</sup> Such a decision is immediately enforceable in accordance with the Polish Code on Administrative Procedures.<sup>23</sup> It can be

---

17 Interview with the Polish Minister in charge of marine fisheries, Marek Gróbarczyk, published on 2.09.2016, available at <http://www.24kurier.pl/rybolowstwo/ekologia-rownowaga-rybak/>.

18 Article 92(6) of the Control Regulation.

19 Article 79 of the 2014 Act.

20 Article 92 of the Control Regulation.

21 Article 79(1) of the 2014 Act.

22 Article 79(5) of the 2014 Act.

23 Article 79(6) of the 2014 Act.



subject to an appeal procedure. Indeed, according to Article 4 of the 2014 Act, the provisions of the Polish Administrative Procedure Code<sup>24</sup> apply to all matters relating to fisheries operations, unless any specific provision stipulates otherwise. As a result, any decision adopted by a District Inspectorate of Marine Fisheries can be subject to an appeal to the Minister in charge of Fisheries.<sup>25</sup> These decisions can be, for example, related to the imposition of fines or to the delivery of a special fishing permit. After the Minister in charge of Fisheries issues his last decision, the persons concerned have a right to lodge a complaint against that decision to a Regional Administrative Court. Finally, a complaint dismissed by the Regional Administrative Court can be appealed in the last sentence through the Supreme Administrative Court in Poland ("skarga kasacyjna").<sup>26</sup>

The number of points to be assigned depends on each category of serious infringement and is determined in accordance with Annex XXX of the Control Regulation Implementing Regulation. In accordance with the Control Regulation and its Implementing Regulation, Section 4 of the 2014 Polish Act also provides for the possibility to suspend or withdraw a fishing licence if a certain number of points is reached.<sup>27</sup> In addition, the withdrawal of a fishing licence triggers the automatic expiration of any special fishing permit linked to it.<sup>28</sup>

### 1.3.4 The point system for masters

Penalty points can be attributed to masters of fishing vessels by a District Inspector of Marine Fisheries.<sup>29</sup> Points are attributed to masters in accordance with Article 92(2) of the Control Regulation, when they are held liable for a serious infringement of the rules of the CFP. The sanction to be imposed for the committed infringement is imposed through the same decision. This decision is immediately enforceable in accordance with the Polish Code on Administrative Procedures.

Penalty points are assigned in accordance with Annex XXX of the Control Regulation Implementing Regulation. In addition, Articles 81 and 82 of the 2014 Act give more details on the application of the penalty point system to masters. The Polish legislation mirrors the EU provisions on the penalty point system for fishing licence holders. It states for example, and in line with Article 129(1) of the Control Regulation Implementing Regulation, that in cases where the master accumulates a number of points (18, 36, 54, 72), he cannot occupy a position as master of a fishing vessel for the periods of time foreseen in Article 92(3) of the Control Regulation (2, 4 and 8 months and one year, respectively). The only difference with the EU legislation on the point system for licence holders is that the 2014 Polish Act states that in cases where the number of points assigned to the master amounts to 90, then he cannot occupy a position as master of a fishing vessel for a period of 2 years counted from the day when the decision on the suspension was issued - as opposed to the permanent withdrawal of the fishing licence that is foreseen in the EU regulations.

---

24 Ustawa z dnia 14 czerwca 1960 r. Kodeks postępowania administracyjnego, available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU19600300168>.

25 Article 103 of the Administrative Procedure Code, available at: <http://isap.sejm.gov.pl/DetailsServlet?id=>.

26 Article 13 and 15 of the Proceeding before Administrative Courts Code, available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20021531270>.

27 Articles 36, 37 of the 2014 Act.

28 Article 37(1) of the 2014 Act.

29 Article 79(3) of the 2014 Act.

If the inspector discovers two or more serious infringements of the CFP rules committed by a master of a fishing vessel in the course of an inspection, the number of penalty points assigned cannot exceed twelve points.<sup>30</sup>

The District Inspector on Marine Fisheries shall immediately inform the Director of the maritime office who issued the authorisation to the master of the fishing vessel about the number of points assigned to him for committing the serious infringements. Additionally, when the suspension threshold has been triggered, the District Inspector on Marine Fisheries shall also request placing the master on a list established in accordance with Article 72(8) of the 2014 Act which includes the name of the persons whose authorisation to fish or permission to act as masters of fishing vessels has been suspended. This list is accessible on the website of the authority responsible for issuing such authorisations and contains the name and surname of the person, as well as the number and date of issuance and validity of the document confirming this permission.<sup>31</sup>

If the master does not commit any other serious infringement of the CFP rules in the course of three years following the decision to assign points, all the points are deleted from the national registry of infringements.<sup>32</sup> This provision mirrors Article 92(4) of the Control Regulation. Finally, when the penalty points of the operator or of the master are deleted, the same number of points attributed for committing the same serious infringements by respectively the master or the operator, are also deleted.<sup>33</sup>

### 1.3.5. Financial sanctions

Poland has introduced a system of fines, with several accompanying sanctions, for committing serious and non-serious infringements of the fisheries provisions.

According to Article 130(1) of the 2014 Act, sanctions for non-serious and serious infringements are imposed by the District Inspectors of Marine Fisheries. When fines are imposed, they shall be paid within 14 days following the day the decision was delivered to the offender.<sup>34</sup>

Article 125 of the 2014 Act details the rules applicable to sanctions for non-serious infringements of the rules laid down in the CFP Regulation, the 2014 Act, and implementing regulations. When imposing these sanctions, the operator of the fishing vessel and its master are treated separately and an additional criterion linked to the total length of the fishing vessel applies:

- The operator of a fishing vessel of a total length equal to or longer than 10 metres is subject to a sanction not lower than 500 zł and not exceeding 50 times his salary;
- The operator of a fishing vessel of a total length smaller than 10 metres is subject to a sanction not lower than 500 zł and not exceeding 10 times his salary;
- The master of a fishing vessel of a total length equal to or longer than 10 metres is subject to a sanction not lower than 500 zł and not exceeding 20 times his salary;
- The master of a fishing vessel of a total length smaller than 10 metres is subject to a sanction not lower than 500 zł and not exceeding 10 times his salary.

---

<sup>30</sup> Article 81 of the 2014 Act.

<sup>31</sup> Ustawa z dnia 18 sierpnia 2011 r. o bezpieczeństwie morskim, available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20112281368>.

<sup>32</sup> Article 83(1) of the 2014 Act.

<sup>33</sup> Article 83(2) of the 2014 Act.

<sup>34</sup> Article 130(2) of the 2014 Act.

Article 126 of the 2014 Act lays down the sanctions for serious infringements of the CFP rules. Article 126(1) provides for sanctions for infringements defined in Article 42(1) of the IUU Regulation<sup>35</sup> or in Article 90(1) of the Control Regulation.<sup>36</sup> In line with Article 44(2) of the IUU Regulation,<sup>37</sup> it imposes a sanction of five times the value of the fishery products obtained by committing a serious infringement. If a serious infringement is committed more than twice during the preceding five-year period, Article 126(2) of the 2014 Act provides for a sanction of at least eight but not more than twenty times the value of the fishery product obtained by committing the serious infringement, a provision also in line with the requirements of the IUU Regulation.

Article 126(3) of the 2014 Act contains a cross-reference to the Polish Implementing Regulation on the amount of financial sanctions concerning the serious infringements of the CFP rules. According to this Regulation, the overall level of sanctions must be calculated taking into account the repetition of the infringement, the prejudice to the fishing resources and to the marine environment concerned, the financial benefits achieved and the social harm caused. Pursuant to the same provision, the value of the fishery products is calculated on the basis of the average market price which can be found in an electronic reporting system for the day the infringement was committed. In case there is no average price on the day the infringement was committed, the average market price from a day prior to committing the infringement shall be taken into account.

In addition, the Polish implementing regulation differentiates the amount of fines according to the type of infringement committed. It divides sanctions into two categories: 1) sanctions for serious infringements committed at least twice but not more than four times over the previous five years, and 2) sanctions for serious infringements committed five times or more times over the previous five years. Under the first category, sanctions can amount up to eleven times the value of the fishery products obtained by committing the serious infringement. Under the second one, the sanctions can be up to fifteen times of the value of the illegally caught fishery products.

### 1.3.6. Accompanying sanctions

Apart from the financial sanctions, Polish law foresees the possibility to adopt some of the accompanying sanctions laid down in Article 45 of the IUU Regulation.

In accordance with Article 109(1)(7)(b) of the 2014 Act, if during the inspection there is a reasonable suspicion of an infringement of the provisions pertaining to marine fisheries regulations, an Inspector of Marine Fisheries can seize catches, fishing gears and documents permitting to carry out marine fishing. This provision reflects the sanction laid down in Article 45(3) of the IUU Regulation.

---

35 Article 42(1) of the IUU Regulation: "For the purpose of this Regulation, serious infringement means: a) the activities considered to constitute IUU fishing in accordance with the criteria set out in Article 3; b) the conduct of business directly connected to IUU fishing including the trade in/or the importation of fishery products; c) the falsification of documents referred to in this Regulation or the use of such false or invalid documents."

36 Article 90(1) of the Control Regulation: "In addition to Article 42 of Regulation (EC) No 1005/2008, the following activities shall also be considered as serious infringements for the purpose of this Regulation depending on the gravity of the infringement in question which shall be determined by the competent authority of the Member State, taking into account criteria such as the nature of the damage, its value, the economic situation of the offender and the extent of the infringement or its repetition: (a) the non-transmission of a landing declaration or a sales note when the landing of the catch has taken place in the port of a third country; (b) the manipulation of an engine with the aim of increasing its power beyond the maximum continuous engine power according to the engine certificate; (c) the failure to land any species subject to a quota caught during a fishing operation, unless such landing would be contrary to obligations provided for in the rules of the common fisheries policy or fishing zones where such rules apply."

37 Article 44(2) of the IUU Regulation: "The Member States shall impose a maximum sanction of at least five times the value of the fishery products obtained by committing the serious infringement".

Additionally, Article 109(2) of the 2014 Act provides for the possibility to detain a fishing vessel if, during an inspection, there is a reasonable suspicion of an infringement taking place. In this case, an Inspector of Marine Fisheries may detain a fishing vessel that is flagged in Poland, unless the conditions laid down in Article 103 of the Regulation No 404/2011 have been met.<sup>38</sup>

Article 110 of the 2014 Act applies to the detention of a fishing vessel that is flagged in a country other than Poland. Pursuant to Article 110(1), if during the inspection there is a reasonable suspicion of an infringement taking place, an Inspector of Marine Fisheries may detain, control and take the vessel flying a flag different than that of Poland to the port situated in the territory of Poland. Article 110(2) puts the obligation on an Inspector of Marine Fisheries to inform the District Inspector of Marine Fisheries about the incident. The District Inspector of Marine Fisheries will forward this information immediately to the respective flag authority of the vessel concerned.

Additionally, the Polish Act of 10 July 2015 concerning support for the sustainable development of the fisheries sector co-financed by the European Maritime and Fisheries Fund (EMFF)<sup>39</sup> lays down other provisions on accompanying sanctions imposed for committing a serious infringement. Article 12(3)(b) of this Act lists entities which are banned from access to public funding under the European Maritime and Fisheries Fund (EMFF). Financial assistance shall not be granted to persons whose name appears in the national registry of infringements established under Article 80 of the 2014 Polish Marine Fisheries Act.

## 2. The national register of infringements

As required under Article 93 of the Control Regulation, Article 80 of the 2014 Act establishes a national register of infringements which shall be electronically accessible and maintained by the Minister of Marine Fisheries.

Such a register is not accessible via a standard internet search. Thus, we made a Freedom of Public Information Act request to the Permanent Representation of the Republic of Poland to the European Union in Brussels and to the Polish Ministry of Maritime Economy and Inland Navigation, asking for information on whether the system has been introduced in Poland, as the EU and Polish laws oblige Poland to do so.

According to the information we received, the system was introduced in 2015 and can be found under the title 'registry of infringements' in the Electronic Reporting System, which is maintained by the Polish Fisheries Monitoring Centre (FMC) based in Gdynia, Poland.

Article 80 of the 2014 Act provides that the register shall include: the name and surname of the fishing vessel operator and/or of the master who participated in an infringement, the EU Common Fleet Register (CFR) number of the vessel and the external identification number of the vessel used to commit the infringement, the type of infringement committed, the number of points assigned, and the sanctions incurred.

---

38 Article 103 of Regulation No 404/2011: "(1) Officials responsible for the conduct of the inspection shall ensure that no action is taken that may compromise the safety of the fishing vessel and its crew. (2) Officials shall not require the master of the fishing vessel that is being boarded or disembarked to stop or manoeuvre during fishing, or to stop the shooting or hauling of fishing gear. Officials may, however, require the interruption or delay of the shooting of gear to permit safe boarding or disembarkation until they have boarded or disembarked the fishing vessel. In case of boarding this delay shall not exceed 30 minutes after officials have boarded the fishing vessel unless an infringement has been detected. This provision does not affect the possibility of officials to require the gear to be hauled for inspection."

39 Ustawa z dnia 10 lipca 2015 r. o wspieraniu zrównoważonego rozwoju sektora rybackiego z udziałem Europejskiego Funduszu Morskiego i Rybackiego, available at: <http://dziennikustaw.gov.pl/du/2015/1358>.

The data collected in the national register of infringements is not publicly available. It is only available to public authorities, courts, prosecutors and other institutions implementing EU funds, to the extent necessary for the exercise of their statutory tasks.

The data concerning the type of infringement and the number of points assigned can also be made available upon request to the owner or the operator of the fishing vessel used for the infringement. The data concerning the number of points assigned and the level of sanctions can be made available upon request of the master of the fishing vessel in question.

### 3. What is happening in practice

In this section, we will examine data on the Polish National Control Action Programme and on infringements detected by the Polish District Inspectors, in order to assess whether these numbers are in line with the objectives set in the Control Regulation.

#### 3.1. Data on the National Control Action Programme

We made a Freedom of Public Information Act request to the District Inspectors of Marine Fisheries in order to collect data regarding inspections conducted in light of the Polish National Control Programme for the Baltic Sea. We received subsequent information from two Inspectorates.

Between 1 January 2016 and 26 September 2016, the District Inspectorate in Szczecin conducted 162 inspections at sea and 964 in ports. According to them, the inspections did not detect serious infringements and therefore there was no need for the assignment of penalty points.

According to the information received from the District Inspectorate of Marine Fisheries in Słupsk, between 1 January 2016 and 27 of September 2016, there were 251 inspections at sea. 709 in ports. As a result, four administrative proceedings have been launched. According to the information received, the inspections did not detect serious infringements and therefore there was no need for the assignment of penalty points.

Data on the 2015 JDP for the Baltic Sea can also be found in the EFCA annual report.<sup>40</sup> It indicates that that year, Poland conducted 1,074 inspections on land, the outcome of which was the detection of 24 infringements. It also conducted 768 inspections at sea and found a total of 20 suspected infringements.

Compared to the infringement rates reported by other Member States, the Polish infringement rates, is quite low: around 2% for both land and sea inspections. As a comparison, in France for example, the infringement rates reported by the "Centre National de Surveillance des Pêches" are around 18% at sea and 8% on landing.<sup>41</sup> The reasons for these discrepancies in the infringement rates found during inspections in different EU Member States is not clear.

Landings of Polish fishing vessels are highly concentrated in ports based in Kołobrzeg, Władysławowo, Hel, Ustka and Darłowo. The Minister in charge of fisheries admitted that the

---

40 See: <http://www.efca.europa.eu/en/content/annual-report-2015>.

41 See: [http://www.developpement-durable.gouv.fr/IMG/pdf/Bilan\\_2015\\_du\\_CROSS\\_Etel.pdf](http://www.developpement-durable.gouv.fr/IMG/pdf/Bilan_2015_du_CROSS_Etel.pdf).

port infrastructure has to be urgently improved.<sup>42</sup> In light of the implementation of the landing obligation, there is a particular need for buildings and equipment enabling the management of unwanted catches. His view is that investments in fishing ports and other landing places will improve compliance with the landing obligation as well as enhance the quality of controls of landings.

## 3.2. Data on infringements

The data on infringements and serious infringements of the CFP rules is not available online and cannot be found unless a Freedom of Public Information Act request is sent to the respective authorities.

Having submitted several requests, we present the data we received from the three Polish District Inspectorates pertaining to the infringements and serious infringements of the CFP rules.

### 3.2.1 Data on infringements from the District Inspectorate of Marine Fisheries in Szczecin

The District Inspector of Marine Fisheries in Szczecin has not imposed any sanctions for serious infringements since the entry into force of this requirement with the 2014 Act. In 2016, it nevertheless imposed sanctions for non-serious infringements in accordance with Article 130(1) of the 2014 Act.

Between the years 2011-2015, the Inspectorate imposed sanctions for infringements in accordance with Article 64 of the now repealed 2004 Act on Marine Fisheries.<sup>43</sup> This Article dealt with financial sanctions in case of infringements of the provisions of the Act, the implementing regulations and provisions of the CFP. In 2011, there were 24 sanctions imposed concerning marine fisheries infringements; in 2012, 17; in 2013, 24; in 2014, 33; and in 2015, 2.

The Inspectorate informed us that between the years 2011-2015, sanctions were imposed in accordance with the Polish Implementing Regulation of 21 April 2005 concerning the amount of financial sanctions for infringement of fisheries provisions. Since 2016, sanctions are imposed in accordance with the Polish Implementing Regulation concerning the amount of financial sanctions for infringements of marine fisheries rules.

### 3.2.2 Data on infringements from the District Inspectorate of Marine Fisheries in Słupsk

Cumulative data of infringements subject to the old 2004 Act of Marine Fisheries for the years 2010-2014 were provided by the Inspectorate in Słupsk. In 2010 there were 26 infringements pursued; in 2011, 33; in 2012, 26; in 2013, 46 and in 2014, 25. The infringements were mainly related to the issue of declaration and notification of catches or data concerning catches. To date, no serious infringements have been reported. The Inspectorate also indicated that the average time for administrative proceedings to go through their first stage is 3 months.

---

<sup>42</sup> Interview with the Polish Minister on Marine Fisheries, Marek Gróbarczyk, op.cit.

<sup>43</sup> Ustawa z dnia 19 lutego 2004 r. o rybołówstwie, available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20040620574>.

### 3.2.3 Data on infringements from the District Inspectorate of Marine Fisheries in Gdynia

The most specific and detailed data was provided by the District Inspectorate in Gdynia. Since the 2014 Act came into force, there have been no serious infringements reported. The infringements which had qualified under the 2004 Act as 'serious' fell in most cases under the following categories:

- Not entering data in the fishing logbook or in the landing or transshipment declarations, or entering falsified data in these declarations
- Fishing during closed seasons
- Fishing using prohibited gears

According to the information received from this Inspectorate, sanctions for serious infringements as defined in the IUU Regulation were imposed in accordance with the Polish Implementing Regulation of 2005 determining the amount of financial sanctions for infringements of fisheries provisions. This regulation included in its scope infringements which fell also under the definition of a serious infringement enshrined in the IUU Regulation. However, given the fact that at that time, there were no national measures (such as criteria based on which the District Inspector on marine fisheries could determine the gravity of the infringement of the rules of the CFP), the emphasis 'serious' was applied only for reporting purposes. Concretely, it means that Poland was for several years not implementing its obligations under the Control and IUU Regulations.

For instance, Article 3(1)(b) of the IUU Regulation presumes a fishing vessel to be engaged in IUU fishing, which constitute a serious infringement in the light of Article 42 of the IUU Regulation, if it has: *"not fulfilled its obligations to record and report catch or catch-related data, including data to be transmitted by satellite vessel monitoring system, or prior notices under article 6 of the IUU Regulation."* Paragraph 3(5) of the Regulation of the Minister of Agriculture and Rural Development of 21 April 2005<sup>44</sup> which determines the level of financial sanctions for infringements of the fisheries rules provided for sanctions between 1 000 zł- 5 000 zł for this type of infringement.

The District Inspector, when imposing a sanction for an infringement described above, took into account the value of the catch, the repetition of the infringement and the fish species caught. Depending on these factors, the District Inspector decided on the amount of fines within the limits laid down in the 2005 Regulation. Under this text, sanctions for infringements were divided into three categories: (i) applicable to operators of vessels of a total length equal or longer than 10 m; (ii) applicable to masters of vessels of a total length equal or longer than 10 m; (iii) applicable to both operators and masters of vessels smaller than 10 m. There were 37 categories of financial sanctions for different infringements committed by the operator, 38 categories of financial sanctions for infringements committed by the master and 39 for infringements committed by both operators and masters using vessels smaller than 10 m. The financial sanctions ranged from 500 zł to 44,000 zł.

On our request, the District Inspectorate of Marine Fisheries in Gdynia shared data of infringements committed in the area under its jurisdiction between the years 2004-2015.

---

44 Rozporządzenie Ministra Rolnictwa i Wsi z dnia 21 kwietnia 2005 r. w sprawie wysokości kar pieniężnych za naruszenie przepisów o rybołówstwie, available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20050760671>.

The following infringements and financial sanctions were imposed:

Number of infringements established in accordance with Article 63 of the Polish Act on Fisheries of 2004		Amount of sanctions for infringements in accordance with Article 63 of the Polish Act on Fisheries of 2004		
Year	Total amount	'Serious' infringements	Total amount	'Serious' infringements
2004	45	0	117,450 zł	0 zł
2005	40	0	125,900 zł	0 zł
2006	85	0	210,700 zł	0 zł
2007	68	0	157,600 zł	0 zł
2008	126	0	629,600 zł	0 zł
2009	197	0	1,271,000 zł	0 zł
Year	Total amount	'Serious' infringements	Total amount	'Serious' infringements
2010	158	48	661,500 zł	81,200 zł
2011	161	72	548,600 zł	91,600 zł
2012	168	51	119,250 zł	94,500 zł
2013	79	24	105,800 zł	71,000 zł
2014	127	31	103,150 zł	73,100 zł
Number of infringements in accordance with Article 63 of the Polish Act on Fisheries of 2004		Amount of sanctions for infringements in accordance with Article 63 of the Polish Act on Fisheries of 2004		
	Total amount	'Serious' infringements	Total amount	'Serious' infringements
2015	27	10	40,400 zł	12,500 zł

The average time for the administrative proceedings to go through their first stage is 67 days.



## 4. Discussion and recommendations

Our research shows that Poland has been slow in implementing the requirements of the Control Regulation, which was adopted in 2009 and entered into force on 1 January 2010. Progress in the implementation of this instrument has been made only recently. In this regard, comparing the findings of a 2009 report “*Survey of institutions responsible for inspecting Polish fisheries in the Baltic Sea*”<sup>45</sup> with the control and enforcement framework in place to after the 2013 reform of the CFP and the adoption of the 2014 Polish Marine Fisheries Act, shows that a large majority of the concerns underlined in this report have been addressed.

But, as the Polish legal framework for fisheries enforcement was amended fairly recently, it is too early to determine whether the new system is effective or not. Judging by the data on the number of inspections conducted shared by the two Inspectorates and through the EFCA, we can assume that the amount of inspections is relatively high. However, it must be noted that the number of infringements reported in comparison to the number of inspections is surprisingly low. This raises questions about the effectiveness of these inspections at detecting and reporting suspected infringements.

The new legal framework provides the legal basis on which the sanctioning system has been implemented. Polish law now provides for financial sanctions, as well as some of the accompanying sanctions provided for in the EU Regulations. Now, only time will tell if the new framework will ensure that everyone who commits a serious infringement will be punished with administrative sanctions of an effective, proportionate and dissuasive nature, as required by Article 90 of the Control Regulation and Article 44(1) of the IUU Regulation.

In a recent interview, the current Minister of Maritime Economy and Inland Navigation, Mr Marek Gróbarczyk, indicated that a reform of the current structure of Inspectorates is planned.<sup>46</sup> This reform foresees a merger of the District Inspectorates and the creation of a General Inspectorate of Marine Fisheries. This change could help to track and consolidate data on the enforcement system in a more harmonised way and, as a result, could positively affect the efficiency of the fisheries enforcement system in Poland.

Beyond these developments pertaining to fisheries enforcement laws and practices in Poland, there are some additional concerns we would like to address.

First, the quality and efficiency of inspections has to be improved in order to successfully detect infringements of both a non-serious and serious nature. The data we received from the three Inspectorates indicates that the number of infringements detected is low in comparison to inspections that took place, particularly when compared to the rate of detected infringements compared to inspections in other Member States, such as France.<sup>47</sup> Additionally, since the new Polish law came into force no serious infringements of the CFP provisions have been reported. We therefore recommend that the relevant authorities and inspectors receive guidance and training on the use of administrative sanctions for serious infringements which would help to disseminate knowledge of the new regulations.

---

45 Survey of institutions responsible for inspecting Polish fisheries in the Baltic Sea-report, op.cit.

46 Interview with the Polish Minister on Marine Fisheries, op.cit.

47 See The Control and enforcement of fisheries in France, ClientEarth, October 2016, available at: <http://www.documents.clientearth.org/library/download-info/the-control-and-enforcement-of-fisheries-in-france/>

Second, the data on the number of infringements detected in Poland is not publicly available. Article 93 of the Control Regulation, which establishes the national register of infringements requirement, does not itself require that the register should be publicly accessible. However, other legal provisions support the right of the public access to the national register of fisheries infringements. For example, Article 3 of the CFP Basic Regulation includes transparency of data handling, in accordance with existing legal requirements on confidentiality, as one of the main principles of good governance. Therefore, we argue that transparency should be increased through public access to the national register of infringements.

Third, some of the provisions in Poland's legal framework which have been modified in order to comply with the EU regulations relating to the CFP are not entirely coherent with the EU requirements. Along with the Polish Marine Fisheries Act, a number of national implementing regulations have been introduced. While these national measures do not in principle alter the legal effects of EU law in the Polish legal order (direct effect), they introduced some degree of legal uncertainty by not being entirely coherent and therefore are likely to reduce the effectiveness and efficiency of the EU regulations. In this context the major issue that we recommend must be addressed is the drafting of the Polish implementing regulations, many provisions of which should be clarified.

Finally, although an enforcement framework has been put in place, it is overly complicated and misleading with a number of cross-references (or lack of thereof) which make the Polish Regulations internally inconsistent. As an example, the Polish Implementing Regulation concerning the amount of financial sanctions for serious infringements of the CFP rules differentiates sanctions depending on the gravity of the infringement. §1(2)(4) of the Implementing Regulation lists twelve categories of infringements which are subject to a fine amounting to fifteen times the value of the fishery products obtained as a result of a serious infringement that has been committed five times or more times over the preceding five years. Some of these infringements are defined in the Implementing Regulation, some refer to the 2014 Act and the others refer to the IUU and Control Regulations. Another example is §1 (2)(4)(d) of the 2015 Polish regulation, which imposes a fine for fishing with a flagless vessel. Although, this infringement is defined in Article 3(1)(l) of the IUU Regulation, the provision of the Polish Regulation does not refer to this article. In a similar manner, §1(2)(4)(i) of the Polish Implementing Regulation refers to the infringement described in Article 3(1)(j) of the IUU Regulation but it does not provide for any definition of the infringement. Overall, the drafting of the regulations is complicated and difficult to understand, particularly for non-experts. In addition to amendments to aspects of Poland's national laws to increase coherence and reduce uncertainty, we recommend that publically available and comprehensive guidance on this topic should be issued to help to ensure a better level of compliance with the rules.

## Conclusion

This report has examined the legal framework for the control and enforcement of fisheries in Poland. It analysed the Polish laws and information collected from Freedom of Public Information Act requests in regard of the EU requirements.

This report further compared the findings of the case study with the conclusions of a 2009 report prepared by the Fish Secretariat. This helped to identify the positive changes that have been made to the national legal framework, but concerns remain. We recommend that these concerns should be addressed as a matter of priority by the national authorities, including improvements to the quality and efficiency of inspections, guidance for authorities responsible for imposing sanctions, increased transparency of control and enforcement data and simplification of the legal framework pertaining to fisheries control.

## Annex I – Criteria to determine the gravity of an infringement under Polish law

Nature of the established infringement	Criteria based on which the District Inspector on Marine Fisheries decides on the gravity of the established infringement			
	The repetition of the infringement	The value of the benefits achieved by committing the infringement of the CFP provisions or the market value of the fishery products obtained through the infringement	The total length or the power of the main engine of the fishing vessel	The geographic scope of the infringement
<p>Changing, hiding, concealing, erasing the external identification number</p> <p>(infringement of Article 123 of the 2014 Act)</p> <p>(reflects serious infringement No 3 of Annex XXX of the Control Regulation Implementing Regulation)</p>	<p>At least twice in the course of 12 months counted from the day when the decision on imposing the financial sanction for the same kind of an infringement has become final</p>	<p>Above 4000 zł</p>	<p>Above 8 meters</p>	<p>Area defined in Article 9 (1) of the 2014 Act:</p> <p>Article 9 (1) of the 2014 Act reads as follows:</p> <p>The following fleet segments covering fishing vessels, used for commercial fishing, can be identified:</p> <ol style="list-style-type: none"> <li>1) unenclosed waters of the Baltic Sea, areas of the Polish exclusive economic zone and territorial sea, Pucka Bay, Gdańska Bay, of a total length of a fishing vessel of at least 5 m</li> <li>2) areas referred to in Article 4 (1) and (3) of the Act on sea areas of the Republic of Poland and maritime administration of 21 March 1991* and areas north of the boundary between marine waters and inland navigation established in the implementing Regulation of the Minister in charge of fisheries pursuant to Article 3 of the 2014 Act, concerning a fishing vessel of a total length up to 12 m</li> <li>3) maritime areas other than those referred to in point 1) and 2)</li> </ol>

<p>Conducting fishing using fishing gears used for commercial fishing without a licence</p> <p>(infringement of Article 124 (1) (a) of the 2014 Act)</p> <p>(reflects serious infringement No 7 of Annex XXX of the Control Regulation Implementing Regulation)</p>	<p>At least once in the course of 12 months counted from a day when the decision on imposing the financial sanction for the same kind of an infringement has become final</p>	<p>Above 3000 zł</p>	<p>Above 10 m</p>	<p>Idem</p>
<p>Conducting fishing using fishing gears used for commercial fishing without a special fishing permit for the fishing vessel</p> <p>(infringement of Article 124 (1)(b) of the 2014 Act)</p> <p>(reflects serious infringement No 7 of Annex XXX of the Control Regulation Implementing Regulation)</p>	<p>At least once</p>	<p>Above 5000 zł</p>	<p>Above 10 m</p>	<p>Idem</p>
<p>Not fulfilled its landing obligation to bring or retain on board of the fishing vessel all catches as prescribed by Article 15 (1) of the CFP Regulation</p> <p>(infringement of Article 124 (3) (a) of the 2014 Act)</p> <p>(reflects serious infringement No 5 of Annex XXX of the Control Regulation Implementing Regulation)</p>	<p>At least twice</p>	<p>Irrespective of the financial benefits achieved or the market value of the fishery products</p>	<p>Above 8 m</p>	<p>Idem</p>
<p>Not fulfilled its obligation to share the data as referred to in Article 19 of the EC Implementing Regulation no 404/2011 by the satellite-tracking device or by appropriate telecommunication means as referred to in Article. 25 (1) of this Regulation</p> <p>(reflects serious infringement No 1 of Annex XXX of the Control Regulation Implementing Regulation)</p>	<p>At least twice</p>	<p>Above 15 000 zł</p>	<p>Above 20 m</p>	<p>Idem</p>

<p>Conducting commercial fisheries without the satellite-tracking device as laid down in Article 9 (2) of the Control Regulation</p> <p>(reflects serious infringement No 1 of Annex XXX of the Control Regulation Implementing Regulation)</p>	At least twice	Above 10 000 zł	Above 20 m	Idem
<p>Not fulfilled its obligation to enter data in the logbook or in the landing or transhipment declarations</p> <p>(reflects serious infringement No 1 of Annex XXX of the Control Regulation Implementing Regulation)</p>	At least once	Above 15 000 zł	Above 8 m	Idem
<p>Entering falsified data in the logbook or in the landing or transhipment declarations</p> <p>(reflects serious infringement No 3 of Annex XXX of the Control Regulation Implementing Regulation)</p>	At least once	Above 20 000 zł	Above 8 m	Idem
<p>Not fulfilled its obligation to transmit a logbook, a transhipment declaration, a landing declaration to the competent District Marine Fisheries Inspector or not fulfilled its obligation to transmit data from a logbook or from transhipment or landing declaration to the Polish Fisheries Monitoring Centre in case of an electronic logbook, transhipment or landing declaration</p> <p>(reflects serious infringement No 1 of Annex XXX of the Control Regulation Implementing Regulation)</p>	At least once	Above 15 000	Above 8 m	Idem
<p>Obstructing the work of Marine Fisheries Inspectors in the exercise of their duties arising from the 2014 Polish Act on Marine Fisheries</p> <p>(reflects serious</p>	At least twice	Above 10 000 zł	Above 8 m	Idem

infringement No 10 of Annex XXX of the Control Regulation Implementing Regulation)				
Obstructing the work of control observers in the exercise of their duties or tasks as referred to in Article 73 (1) of the Control Regulation  (reflects serious infringement No 10 of Annex XXX of the Control Regulation Implementing Regulation)	At least twice	Above 10 000 zł	Above 12 m	Idem
Infringement as referred to in Article 3 (1) (g) or in Article 42 (1) (c) of the IUU Regulation  (reflects serious infringement No 4 of Annex XXX of the Control Regulation Implementing Regulation)	At least once	Above 5000 zł	Above 5 m	Idem
Conducting commercial fisheries using fishing gears prohibited for a certain period or in certain areas  (reflects serious infringement No 2 of Annex XXX of the Control Regulation Implementing Regulation)	At least once	Above 20 000 zł	Above 12 m	Idem
Exceeding the fishing quota allocated in the special fishing permit  (reflects serious infringement No 8 of Annex XXX of the Control Regulation Implementing Regulation)	At least once	Above 20 000 zł	Above 8 m	Idem
Conducting commercial fishing during a closed season  (reflects serious infringement No 8 of Annex XXX of the Control Regulation Implementing Regulation)	At least once	Above 15 000 zł	Above 8 m	Idem

<p>Conducting commercial fishing of undersize fish, taking it on board, transshipping or landing, excluding species of marine organisms subject to the landing obligation laid down in Article. 15 of the CFP Regulation</p> <p>(reflects serious infringement No 5 of Annex XXX of the Control Regulation Implementing Regulation)</p>	At least once	Above 20 000 zł	Above 8 m	Idem
<p>Engaging in directed fishing for a stock for which fishing is prohibited</p> <p>(reflects serious infringement No 9 of Annex XXX of the Control Regulation Implementing Regulation)</p>	At least once	Above 15 000 zł	Above 8 m	Idem
<p>Conducting commercial fishing for species after attainment of a quota or for which fishing is prohibited</p> <p>(reflects serious infringement No 8 and 9 of Annex XXX of the Control Regulation Implementing Regulation)</p>	At least once	Above 15 000 zł	Above 8 m	Idem
<p>Conducting commercial fishing using a flagless vessel</p> <p>(reflects serious infringement No 12 of Annex XXX of the Control Regulation Implementing Regulation)</p>	At least once	Above 10 000 zł	Above 8 m	Idem
<p>Failure to submit a prior notice as laid down in Article 6 (1) of the IUU Regulation</p>	At least once	Irrespectively of the financial benefits achieved or the market value of the fishery products	Above 10 m	Idem
<p>Failure to submit a prior notification as laid down in Article 17 of the Control Regulation</p>	At least twice	Above 25 000	Above 12 m	Idem



Failure to submit a prior notification as laid down in Article 17 (1) or (2) of the EU Regulation No 1098/2007**	At least twice	Above 25 000	Above 12 m	Idem
Infringement as referred to in Article 3 (1) (j) of the IUU Regulation) (reflects infringement No 11 of Annex XXX of the Control Regulation Implementing Regulation)	Irrespective of the repetition	Above 10 000 zł	Above 10 m	Idem
Importing into the EU fishery products obtained from IUU fishing or trading of such products (reflects infringement No 11 of Annex XXX of the Control Regulation Implementing Regulation)	At least once	Above 10 000 zł	Irrespective of the length	Irrespective of the geographical scope
non-transmission of a sales note to the District Inspectorate of Marine Fisheries as referred to in Article.90 (1) (a) of the Control Regulation (reflects infringement No 1 of Annex XXX of the Control Regulation Implementing Regulation)	At least twice	Above 7000 zł	Above 12 m	Idem (as in all the other infringements )
Conducting commercial fisheries by using a vessel with an engine the power of which exceeds the one established in the fishing license (reflects infringement No 2 of Annex XXX of the Control Regulation Implementing Regulation)	At least once	Above 10 000 zł	The power of the main engine exceeds the one established in the fishing license more than- 7% for engines with a power up to 100 kW 5% for engines with a power above 100 kW	Idem

\* Article 4 (1) and (3) of the Act on Sea Areas of the Republic of Poland and Maritime Administration of 21 March 1991 provides for definition of maritime inland waters

\*\* Council Regulation (EC) No 1098/2007 of 18 September 2007 establishing a multi-annual plan for the cod stocks in the Baltic Sea and the fisheries exploiting those stocks

## Bibliography

### EU law:

Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing.

Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy.

Council Regulation (EC) no 1098/2007 of 18 September 2007 establishing a multi-annual plan for the cod stocks in the Baltic Sea and the fisheries exploiting those stocks.

Commission Implementing Regulation (EC) No 404/2011 of 8 April 2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy.

Commission Implementing Decision of 21 June 2013 establishing a specific control and inspection programme for fisheries exploiting cod, herring, salmon and sprat in the Baltic Sea (2013/305/EU).

### Polish law:

Ustawa z dnia 19 grudnia 2014 r. o rybołówstwie morskim.

Ustawa z dnia 18 sierpnia 2011 r. o bezpieczeństwie morskim.

Ustawa z dnia 10 lipca 2015 r. o wspieraniu zrównoważonego rozwoju sektora rybackiego z udziałem Europejskiego Funduszu Morskiego i Rybackiego.

Rozporządzenie Ministra Rolnictwa i Rozwoju Wsi z dnia 26 sierpnia 2015 r. w sprawie kryteriów, na podstawie których okręgowy inspektor rybołówstwa morskiego dokonuje oceny wagi stwierdzonego naruszenia przepisów wspólnej polityki rybołówstwa.

Rozporządzenie Ministra Rolnictwa i Rozwoju Wsi z dnia 26 sierpnia 2015 r. w sprawie wysokości kar pieniężnych za poważne naruszenia przepisów wspólnej polityki rybołówstwa.

Rozporządzenie Ministra Rolnictwa i Rozwoju Wsi z dnia 24 września 2004 r. w sprawie siedzib i terytorialnego zakresu działania inspektorów rybołówstwa morskiego.

Polski Krajowy Program Kontroli na Morzu Bałtyckim na 2016 r.

**Others:**

Survey of institutions responsible for inspecting polish fisheries in the Baltic Sea-report, Federacja Zielonych Gaja, Szczecin 2009, available at:  
[http://www.fishsec.org/app/uploads/2011/03/1291914401\\_41763.pdf](http://www.fishsec.org/app/uploads/2011/03/1291914401_41763.pdf).

EU Law: Text, Cases and Materials, P.Craig, G. de Búrca, Edition, Oxford University Press.

Elisabeth Druel  
Lawyer/Juriste  
Biodiversity Programme  
+ 32 (0) 2808 1328  
[edrue@clientearth.org](mailto:edrue@clientearth.org)  
[www.clientearth.org](http://www.clientearth.org)

Liane Veitch  
Fisheries Project Lead  
Biodiversity Programme  
+ 44 (0)20 3030 5956  
[lveitch@clientearth.org](mailto:lveitch@clientearth.org)  
[www.clientearth.org](http://www.clientearth.org)

This report was written for ClientEarth by Mrs. Anna Szczodrowska, Legal Consultant ([anna.m.szczodrowska@gmail.com](mailto:anna.m.szczodrowska@gmail.com)).

ClientEarth is a non-profit environmental law organisation based in London, Brussels and Warsaw. We are activist lawyers working at the interface of law, science and policy. Using the power of the law, we develop legal strategies and tools to address major environmental issues.

ClientEarth is funded by the generous support of philanthropic foundations, institutional donors and engaged individuals.

#### Brussels

Rue du Trône 60  
5ème étage  
1050 Bruxelles  
Belgique

#### London

274 Richmond Road  
London  
E8 3QW  
UK

#### Warsaw

ul. Żurawia 45  
00-680 Warszawa  
Polska