

# Procedure file

Basic information	
<p>COD - Ordinary legislative procedure (ex-codecision procedure) Regulation</p> <p>2012/0158(COD)</p>	Procedure completed
<p>Conservation of fishery resources through technical measures for the protection of juveniles of marine organisms; herring for industrial purposes</p> <p>Amending Regulation (EC) No 850/98 <a href="#">1996/0160(CNS)</a> Amending Regulation (EC) No 1434/98 <a href="#">1997/0353(CNS)</a></p> <p>Subject 3.15.01 Fish stocks, conservation of fishery resources 3.70.01 Protection of natural resources: fauna, flora, nature, wildlife, countryside; biodiversity</p>	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>PECH</b> Fisheries	ALDE <a href="#">GALLAGHER Pat the Cope</a> Shadow rapporteur PPE <a href="#">CADEC Alain</a> S&D <a href="#">THOMAS Isabelle</a> Verts/ALE <a href="#">LÖVIN Isabella</a> ECR <a href="#">STEVENSON Struan</a>	31/05/2012
	Committee for opinion	Rapporteur for opinion	Appointed
	<b>ENVI</b> Environment, Public Health and Food Safety	The committee decided not to give an opinion.	
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Agriculture and Fisheries</a>	<a href="#">3225</a>	25/02/2013
European Commission	Commission DG	Commissioner	
	<a href="#">Maritime Affairs and Fisheries</a>	DAMANAKI Maria	
European Economic and Social Committee			

Key events			
21/06/2012	Legislative proposal published	<a href="#">COM(2012)0298</a>	Summary
03/07/2012	Committee referral announced in Parliament, 1st reading		
09/10/2012	Vote in committee, 1st reading		
19/10/2012	Committee report tabled for plenary, 1st	<a href="#">A7-0342/2012</a>	Summary

	reading		
21/11/2012	Debate in Parliament		
22/11/2012	Results of vote in Parliament		
22/11/2012	Decision by Parliament, 1st reading	<a href="#">T7-0448/2012</a>	Summary
06/02/2013	Decision by Parliament, 1st reading	<a href="#">T7-0044/2013</a>	Summary
25/02/2013	Act adopted by Council after Parliament's 1st reading		
13/03/2013	Final act signed		
13/03/2013	End of procedure in Parliament		
20/03/2013	Final act published in Official Journal		

### Technical information

Procedure reference	2012/0158(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Amending Regulation (EC) No 850/98 <a href="#">1996/0160(CNS)</a> Amending Regulation (EC) No 1434/98 <a href="#">1997/0353(CNS)</a>
Legal basis	Treaty on the Functioning of the EU TFEU 043-p2
Other legal basis	Rules of Procedure EP 159
Mandatory consultation of other institutions	<a href="#">European Economic and Social Committee</a>
Stage reached in procedure	Procedure completed
Committee dossier	PECH/7/09874

### Documentation gateway

Legislative proposal	<a href="#">COM(2012)0298</a>	21/06/2012	EC	Summary
Committee draft report	<a href="#">PE494.655</a>	29/08/2012	EP	
Amendments tabled in committee	<a href="#">PE496.424</a>	25/09/2012	EP	
Committee report tabled for plenary, 1st reading/single reading	<a href="#">A7-0342/2012</a>	19/10/2012	EP	Summary
Text adopted by Parliament, partial vote at 1st reading/single reading	<a href="#">T7-0448/2012</a>	22/11/2012	EP	Summary
Text adopted by Parliament, 1st reading/single reading	<a href="#">T7-0044/2013</a>	06/02/2013	EP	Summary
Draft final act	<a href="#">00064/2012/LEX</a>	13/03/2013	CSL	
Commission response to text adopted in plenary	<a href="#">SP(2013)239</a>	04/04/2013	EC	

### Additional information

National parliaments	<a href="#">IPEX</a>
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## Final act

[Regulation 2013/227](#)  
[OJ L 078 20.03.2013, p. 0001](#) Summary

## Conservation of fishery resources through technical measures for the protection of juveniles of marine organisms; herring for industrial purposes

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**PURPOSE :** to update Council Regulation (EC) No 850/98 concerning the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms.

**PROPOSED ACT:** Regulation of the European Parliament and of the Council.

**BACKGROUND:** following the entry into force of the Treaty on the Functioning of the European Union (TFEU), technical conservation measures could no longer be included in the annual Regulation on fishing opportunities on a transitional basis.

Accordingly, in 2008 the Commission presented a [proposal for a Council Regulation](#) concerning the conservation of fisheries resources through technical measures, intended to replace Regulation (EC) No 850/98 and to provide for permanent implementation of the technical measures laid down in the annual Regulation on fishing opportunities on a transitional basis. However, due to a failure to reach political agreement, this proposal was withdrawn in October 2010.

To ensure that the technical conservation measures contained in Regulation (EC) No 43/2009 fixing for 2009 the fishing opportunities<sup>3</sup> would remain in place from 1 January 2010, the Council adopted Regulation (EC) No 1288/2009 establishing transitional technical measures from 1 January 2010 to 30 June 2011. That Regulation provided for continuation of those technical measures on a transitional basis for 18 months until 30 June 2011. The measures were further extended for another 18 months under Regulation (EU) No 579/2011.

It is the intention of the Commission to revise Regulation (EC) No 850/98 after and in accordance with the Common Fisheries Policy reform which is currently in the process of negotiation. Thus a new technical measures Regulation cannot be ready for entry into force by 1 January 2013. Consequently, a solution is needed to ensure that the transitional technical measures are maintained after 31 December 2012, to allow time to develop a new framework for technical measures.

**IMPACT ASSESSMENT:** there was no need for consultation of interested parties or for an impact assessment.

In relation to the proposal for a Council Regulation adopted by the Commission in 2008 concerning the conservation of fisheries resources through technical measures, an Impact Assessment was carried out. Most of the measures concerned by the present proposal are existing measures, which were included in the 2008 proposal and therefore covered by the Impact Assessment for that proposal.

**LEGAL BASIS:** Article 43(2) of the Treaty on the Functioning of the European Union.

**CONTENT:** the main action is to avoid a discontinuation of the technical measures in question by the end of 2012 which would have negative consequences for the conservation of the stocks involved as well as impacts on the ecosystem. It will ensure legal certainty for these measures while a new technical measures framework Regulation is being developed as part of the reform of the Common Fisheries Policy.

In addition, on the basis of advice from the Scientific, Technical and Economic Committee for Fisheries (STECF), the Commission proposes to make minor amendments to technical measures in question that are inconsistent with or run contrary to measures contained in Regulation (EC) No 850/98.

Likewise, it is necessary to update existing measures contained in the Regulation (EC) No 43/2009 in accordance with recommendation adopted by the North East Atlantic Fisheries Commission (NEAFC) and also include certain technical measures to reduce the discarding of pelagic species in the North-east Atlantic as agreed with Norway and the Faroe Islands and the EU in 2010 but which have not yet been transposed into EU legislation.

**BUDGETARY IMPLICATION:** this measure does not involve any additional Union expenditure.

## Conservation of fishery resources through technical measures for the protection of juveniles of marine organisms; herring for industrial purposes

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The Committee on Fisheries adopted the report by Pat the Cope GALLAGHER (ADLE, IE) on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 850/98 concerning the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms and repealing Council Regulation (EC) No 1288/2009.

The parliamentary committee recommends that the European Parliaments position at first reading under the ordinary legislative procedure should be to amend the Commission proposal as follows:

**Proposed technical measures:** given that these technical measures are transitional to allow time to develop a new framework for technical measures, Members consider that they should prohibit the landing of all marine organisms that have not reached the required size, as provided for in Directive (EC) No 850/98. In addition, the transitional regulation should incorporate the provisions of Regulation (EC) No 850/98 in relation to reducing discards.

**Restrictions applicable to the fishing of cod and whiting in the ICES Division VIa:** the proposed amendments seek to take into account the latest Scientific, Technical and Economic Committee for Fisheries (STECF) comments on the Evaluation of the Cod Recovery Plan and

regarding the West of Scotland Management Line. The defined area is also invalidated by the fact that the Commission have introduced emergency measures to remove haddock from the by-catch provisions in area VIa and a zero TAC has been set for cod in 2012 in VIa.

The amendments clarify the following points:

- By way of derogation, it shall be permitted to conduct fishing activities using gears that target queen scallops, gill and tangle nets within the specified areas and time periods, under certain conditions.
- Haddock is no longer a by-catch under the Commission emergency measures and should therefore be allowed to be caught by gill nets.
- Haddock has now recovered sufficiently to be targetable and so must remain out of the catch composition rules, extending the current Commission emergency measures, to prevent an increase in discarding.
- As cod and whiting stocks are both recovering, the report favours a rapid and flexible approach to ensure the best management as the stocks recover without increasing discards.

Use of trammel nets: Members consider that it is appropriate to permit the use of trammel nets in ICES Sub-area IX in waters deeper than 200 metres but less than 600 metres.

## Conservation of fishery resources through technical measures for the protection of juveniles of marine organisms; herring for industrial purposes

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The European Parliament adopted by 564 votes to 81, with 9 abstentions, amendments to the proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 850/98 concerning the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms and repealing Council Regulation (EC) No 1288/2009.

The matter was referred back to the committee responsible for reconsideration. The vote has been postponed until a later session.

The main amendments adopted by Parliament concern the following points:

- Parliament wishes to clarify that the new proposed framework for technical conservation measures is drawn up pending the reform of the Common Fisheries Policy (CFP) which is under way. The unlikelihood that such a new framework will be in place by the end of 2012 justifies the extension of the application of those transitional technical measures.

- In order to ensure the continuation of proper conservation and management of marine biological resources in the Black Sea, Members propose that minimum landing and mesh sizes for the turbot fishery as previously established in Union law should be incorporated into Regulation (EC) No 850/98.

- An amendment also proposes that, on the basis of consultations held in 2009 between the Union, Norway and the Faroe Islands, with a view to reducing unwanted catches, a prohibition on the releasing or slipping of certain species as well as a requirement to move fishing grounds when 10 % of the catch contains undersized fish should be introduced.

- In the light of advice from the Scientific, Technical and Economic Committee for Fisheries (STECF), Parliament suggested, among other things:

- to maintain the restrictions on landing or retaining on board herring caught in ICES Division IIa;
- repeal of an area closure for the protection of spawning herring in ICES Division VIa;
- to maintain an area closure to protect juvenile haddock in ICES Division VIb;
- to maintain certain technical conservation measures in the waters west of Scotland (ICES Division VIa) to protect cod, haddock and whiting stocks should be maintained in order to contribute to the conservation of fish stocks;
- to allow the use of handlines and automated jigging equipment for saithe in ICES Division VIa;
- to allow the use of gillnets for lesser spotted dogfish in ICES Division VIa;
- to introduce an area closure to protect juvenile cod in ICES Division VIa;
- to maintain measures to protect cod stocks in the Celtic Sea (ICES Divisions VIIf, g);
- to allow the use of trammel nets in ICES Subarea IX in waters with a charted depth more than 200m but less than 600m.

Parliament also underlined the need:

- to periodically review, in the light of scientific advice, the appropriateness of the characteristics of gears in the derogation to fish with trawls, demersal seines or similar gears with a view to their amendment or repeal;
- to periodically review, in the light of scientific advice, the appropriateness of the prohibition on fishing for cod, haddock and whiting in ICES Subarea VI, with a view to its amendment or repeal;
- to clarify the interaction between the different regimes applicable to fishing with gillnets, especially in ICES Subarea VII. Parliament particularly wishes to clarify that the specific derogation for fishing with gillnets with a mesh size equal to or greater than 100mm in ICES Divisions IIIa, IVa, Vb, VIa, VIb, VIIb, c, j and k as well as the specific conditions related to that derogation, only applies in waters with a charted depth of more than 200 metres but less than 600 metres;
- to introduce an equivalent measure to the minimum landing size for anchovy in terms of the number of fish per kg.

## Conservation of fishery resources through technical measures for the protection of juveniles of marine organisms; herring for industrial purposes

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The European Parliament adopted by 644 votes to 4, with 9 abstentions, a legislative resolution on the proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 850/98 concerning the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms and repealing Council Regulation (EC) No 1288/2009.

Parliament's position at first reading was adopted following the ordinary legislative procedure. The amendments adopted in plenary are the result of a compromise reached between Parliament and the Council. The vote on the legislative resolution had been postponed at the session of 22 November 2012. The vote had been postponed at the session of 16 January 2013.

The main amendments adopted by Parliament were as follows:

- Parliament clarifies that the new proposed framework for technical conservation measures is drawn up pending the reform of the Common Fisheries Policy (CFP) which is under way. The likelihood that this new framework will not be in place by the end of 2012 justifies the extension of the application of those transitional technical measures.
- In order to ensure the continuation of proper conservation and management of marine biological resources in the Black Sea, Members propose that minimum landing and mesh sizes for the turbot fishery as previously established in Union law should be incorporated into Regulation (EC) No 850/98.
- An amendment also proposes that, on the basis of consultations held in 2009 between the Union, Norway and the Faroe Islands, with a view to reducing unwanted catches, a prohibition on the releasing or slipping of certain species as well as a requirement to move fishing grounds when 10 % of the catch contains undersized fish should be introduced.
- In the light of advice from the Scientific, Technical and Economic Committee for Fisheries (STECF), the amendments provide for, among other things:
  - to maintain the restrictions on landing or retaining on board herring caught in ICES Division IIa;
  - repeal of an area closure for the protection of spawning herring in ICES Division VIa;
  - to maintain certain technical conservation measures in the waters west of Scotland (ICES Division VIa) to protect cod, haddock and whiting stocks to contribute to the conservation of fish stocks;
  - to allow the use of handlines and automated jigging equipment for saithe in ICES Division VIa;
  - to allow the use of gillnets for lesser spotted dogfish in ICES Division VIa;
  - to introduce an area closure to protect juvenile cod in ICES Division VIa;
  - to maintain measures to protect cod stocks in the Celtic Sea (ICES Divisions VIIf, g);
  - to allow the use of trammel nets in ICES Subarea IX in waters with a charted depth more than 200m but less than 600m.

Parliament also underlined the need:

- to periodically review, in the light of scientific advice, the appropriateness of the characteristics of gears in the derogation to fish with trawls, demersal seines or similar gears with a view to their amendment or repeal;
- to periodically review, in the light of scientific advice, the appropriateness of the prohibition on fishing for cod, haddock and whiting in ICES Subarea VI, with a view to its amendment or repeal;
- to clarify the interaction between the different regimes applicable to fishing with gillnets, especially in ICES Subarea VII.
- to introduce an equivalent measure to the minimum landing size for anchovy in terms of the number of fish per kg, as this would simplify work on board vessels targeting this species and facilitate control measures ashore.

Parliament declares that the provisions of this Regulation regarding implementing acts are the result of a delicate compromise. In order to achieve a first reading agreement before the expiry of Regulation (EC) No 850/98 by the end of 2012, it has accepted the possibility of using implementing acts in certain specific cases in Regulation (EC) No 850/98. It stresses, however, that those provisions are not to be taken or used as a precedent in any regulation adopted in accordance with the ordinary legislative procedure, in particular the Commission proposal for a Regulation amending Council Regulation (EC) No 850/98.

## Conservation of fishery resources through technical measures for the protection of juveniles of marine organisms; herring for industrial purposes

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**PURPOSE:** to update Council Regulation (EC) No 850/98 concerning the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms with a view to ensuring the proper conservation and management of marine biological resources.

**LEGISLATIVE ACT:** Regulation (EU) No 227/2013 of the European Parliament and of the Council amending Council Regulation (EC) No 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms and Council Regulation (EC) No 1434/98 specifying conditions under which herring may be landed for industrial purposes other than direct human consumption.

**CONTENT:** following the entry into force of the Treaty on the Functioning of the European Union (TFEU), technical conservation measures could no longer be included in the annual Regulation on fishing opportunities on a transitional basis given that these technical measures have to be adopted according to the ordinary legislative procedure (codecision).

In order to ensure the continuation of proper conservation and management of marine biological resources, Council Regulation (EC) No 850/98 should be updated by incorporating the transitional technical measures into it.

As a result, this Regulation seeks to avoid an interruption in the technical measures in question at the end of 2012 because this would have a negative impact on the conservation of the stocks concerned and an impact on the ecosystem. It also seeks to provide legal certainty in regard to these measures pending the reform of the Common Fisheries Policy which is under way. The unlikelihood that such a new framework will be in place by the end of 2012 justifies the extension of the application of these transitional technical measures.

**ENTRY INTO FORCE:** 23/03/2013.

