

Are EU fisheries ministers breaking the law?

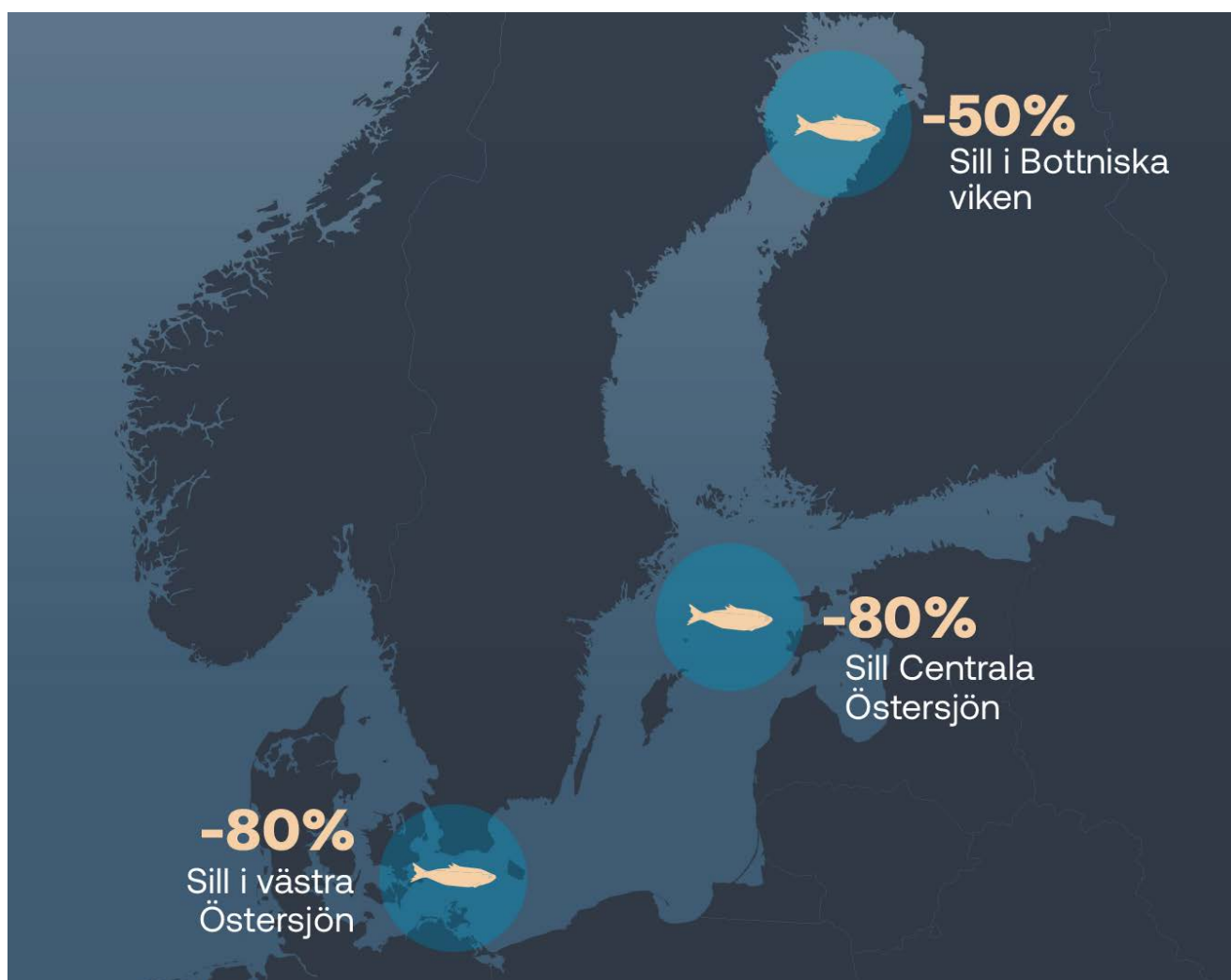
A legal review of political decisions
concerning fisheries in the Baltic Sea

Introduction

On 20 November 2023, the EU Council of Ministers (the Council) agreed on quotas for fishing in the Baltic Sea in 2024.¹ The decision included how much herring and sprat may be caught in Member States' waters in the Baltic Sea during the year. Such quota decisions are taken every autumn to set the limits for the following year's fishing. The decision was difficult to reconcile with the scientific advice commissioned by the EU from the International Council for the Exploration of the Sea (ICES) and went against the draft decision prepared by the European Commission (the Commission) on the basis of the advice. In particular, the Commission had proposed that no directed fishing and only unavoidable by-catches should be allowed for both the Central Baltic and Gulf of Bothnia herring stocks.² Nevertheless, the Council decided to allow catches of just over 40 000 tonnes of the former and 55 000 tonnes of the latter.³

The decision was widely criticised, and both its appropriateness and legality were questioned. Was the Council legally entitled to take such a decision, which appears to go against many of the rules and principles that EU law requires to guide fisheries management?

This text deals with the overall question of the Council's competence and discretion when deciding on fishing quotas, and more specifically whether it can be considered that the Council was within the limits of the legislation when deciding on the 2024 fishing quotas for the Baltic Sea. First, a brief introduction to the background and structure of fisheries legislation and why it looks the way it does.



The development of herring compared to peak levels. In the Central Baltic Sea, herring stocks have declined by over 80 per cent compared to the 1970s. In the last four years, the stock has declined by 40% and is now at a critical level. In the Gulf of Bothnia, the herring stock has declined by over 50% since the early 1990s. In the western Baltic Sea, herring stocks have declined by over 80 per cent since the early 1990s. Source: ICES Advice 2022, Illustration: Sofie Handberg. Sill i Bottniska viken = Herring in the Gulf of Bothnia, Sill i Centrala Östersjön = Herring in the Central Baltic, Sill i västra Östersjön = Herring in the Western Baltic.

The EU's fisheries policy emerges

When what is now the EU was founded in the 1950s – then under the name of the EEC – fisheries were not given much attention. In the original Treaty of Rome, fisheries were merged with agricultural policy and given a fairly minor role. A major reason for this is that most countries at the time, including the EEC Member States, claimed exclusive fishing rights only in a very limited part of the sea nearest the coast, so marine fisheries were mainly conducted in international waters and in accordance with international law. During the 1960s and 1970s, many states – in Europe, especially Iceland and Norway – began to claim increasingly large fishing zones to which other countries' fishing vessels had no access except by agreement with the coastal state. Initially, the EEC states tried to counteract this development, which they felt did not serve their interests, but eventually it became apparent that the trend could not be stopped and in 1977 they instead declared coordinated exclusive fishing zones extending up to 200 nautical miles from the coast,⁴ where geographically possible.⁵ This meant that large fishery resources were now under the direct control of Member States, while other fishing grounds had been lost because they were covered by the exclusive fishing zones of other states. It therefore became important to develop a common regulatory framework for the utilisation of fisheries resources.

The first major piece of legislation at EU level setting out principles for fisheries came in 1983 in the form of what is commonly known as the Basic Regulation of the Common Fisheries Policy (CFP Regulation). It has since been replaced by new regulations a number of times and the current CFP Regulation dates from 2013.⁶ Although the regulation was partly concerned with the conservation of fisheries resources, it was largely a regulatory framework centred on the distribution of resources between the different Member States and their fishing fleets. Through successive reforms, ecological sustainability gradually gained a stronger position in the CFP regulatory framework – not least as a response to what was in many cases significant overfishing – including the introduction of maximum sustainable yield (MSY)⁷ as an objective for fisheries management and, from 2013, an explicit requirement to implement an ecosystem-based approach.⁸

The **ecosystem-based approach to fisheries management** means an integrated approach to managing fisheries within ecologically meaningful boundaries which seeks to manage the use of natural resources, taking account of fishing and other human activities, while preserving both the biological wealth and the biological processes necessary to safeguard the composition, structure and functioning of the habitats of the ecosystem affected, by taking into account the knowledge and uncertainties regarding biotic, abiotic and human components of ecosystems.

CFP Regulation, Article 4(1) paragraph 9

From a very modest start, fisheries regulation has evolved to become one of the few policy areas where the EU has exclusive competence.⁹ This means that Member States have transferred all decision-making powers to the EU and exercise them jointly through the Union institutions. It is therefore only to the extent that EU legislation includes an authorisation to that end that an individual Member State can regulate the conduct of commercial marine fisheries.

Allocation of fisheries resources

The EU fisheries policy is fundamentally based on pooling all national fishing waters and turning them into a common resource. In formal terms, this means that all fishing vessels that fly the flag of a Member State and are registered in the Union have equal access to all Union waters, i.e. all marine waters under the jurisdiction of any Member State.¹⁰ In this common fisheries area, the right to fish is then distributed among the different Member States, and thus their fishing fleets, according to what is known as the principle of relative stability. This is based on the idea that Member States receive an equal share of the available fish each year. As fish stocks vary over time – and the amount that can be fished also depends on changing political judgements and priorities – the total amount of fish that can be taken from each stock will vary from year to year. But the percentage share that goes to each Member State is the same – i.e. it is stable – as long as this relative stability does not need to

be renegotiated due to Member States joining or leaving, as in the case of Brexit. This means that Member States do not have to engage in politically charged negotiations on how to allocate the fish each year.

In practice, not all Member States have a share in the relative stability of all fished stocks. For example, only those EU members that are coastal states around the Baltic Sea, i.e. all Baltic coastal states except Russia, share in the quotas for herring and sprat in the Baltic Sea. The size of the relative stability shares, including whether a country has any share at all, is based on considerations such as historical catches, the relative dependence of states and regions on fishing, and past losses of traditional fishing grounds.¹¹ How much can be fished each year is determined by the Council in the form of decisions on so-called fishing opportunities, collectively known as total allowable catches, or TACs.

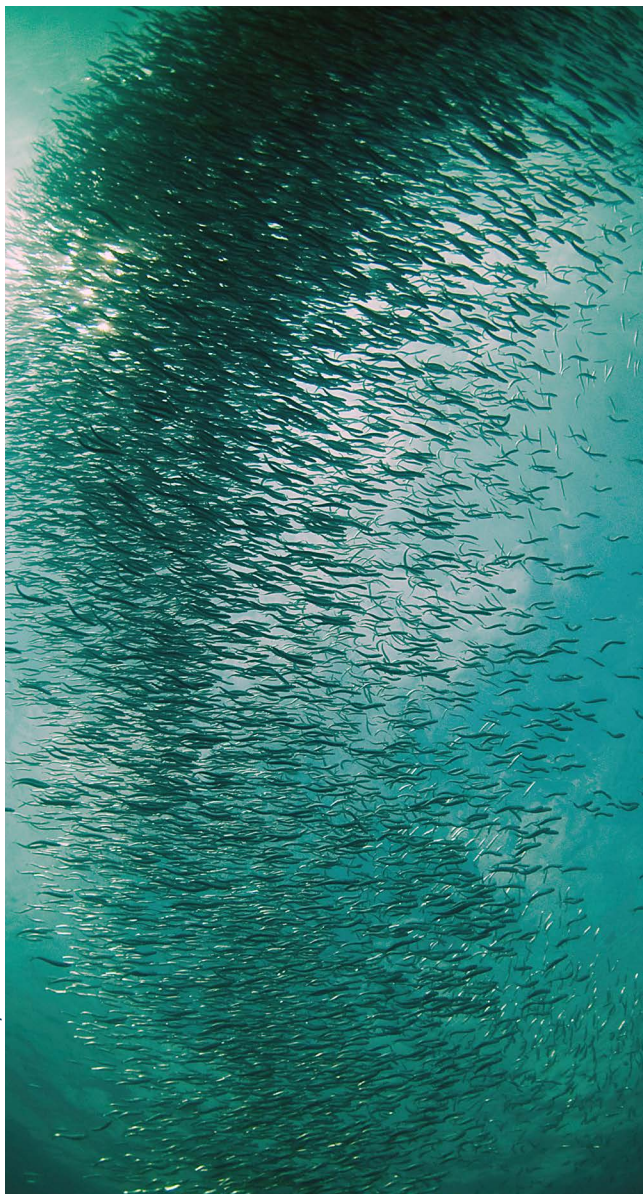


Foto: Tobias Dahlin/ Azote

The framework for Council decisions on fishing opportunities

The EU is not a sovereign state with its own jurisdiction over a particular territory or population. Instead, it is the Member States that delegate decision-making powers to the EU, which are then exercised by the Union's institutions. New legislation is normally decided by the Council, i.e. the responsible ministers of the Member States, together with the European Parliament on a proposal from the Commission. According to the principle of conferred powers, the Union shall act only within the limits of the powers conferred on it by the Member States in the Treaties in order to attain the objectives set out therein.¹² Such decision-making powers are conferred by articles in the Treaties that are called legal bases because they provide the legal basis for the Union's action in a particular policy area.

Article 43 of the Treaty on the Functioning of the European Union (TFEU) contains two different legal bases related to fisheries. First, Article 43(2), which authorises the European Parliament and the Council to adopt, in accordance with the ordinary legislative procedure, provisions necessary for the pursuit of the objectives of the common agricultural policy and the common fisheries policy. This has enabled the EU to adopt the CFP Regulation and other, more detailed legal acts on how to conduct fisheries. In addition, there is a separate legal basis in Article 43(3), which gives the Council the sole right to decide on the fixing and allocation of fishing opportunities. Although these two legal bases are equivalent in a normative hierarchical sense - both are found in the TFEU - decisions on fishing opportunities, i.e. how much can be fished from the various stocks, are a key instrument for implementing the fisheries policy and decisions on fishing opportunities must therefore be compatible with the legal framework developed on the basis of Article 43(2). The Court of Justice of the EU (CJEU) has expressed that fishing opportunities decisions are mainly of a technical nature and aim to implement provisions adopted under Article 42(2),¹³ i.e. the CFP Regulation and other legal acts regulating fisheries. Thus, Articles 43(2) and 43(3) TFEU have different objectives and the Council, when exercising its competence under the latter, must, in the words of the Court, act "within the limits of its powers and, where relevant, within the legal framework already established under Article 43(2) TFEU".¹⁴

Objectives of the fisheries policy

According to the CFP Regulation, which thus sets out the detailed objectives of the CFP and the instruments to be used to achieve these objectives, the CFP shall, inter alia, ensure environmental sustainability, apply the precautionary approach, implement the ecosystem-based approach to fisheries management, and generate economic and social benefits.¹⁵

The **CFP** shall ensure that fishing and aquaculture activities are environmentally sustainable in the long-term and are managed in a way that is consistent with the objectives of achieving economic, social and employment benefits, and of contributing to the availability of food supplies.

CFP Regulation Article 2(1)

As mentioned above, it is also a key objective that the stocks being fished should be restored to and maintained above levels that ensure maximum sustainable yield (MSY). Of particular relevance to the analysis here is that the CFP Regulation provides that “[i]n order to reach the objective of progressively restoring and maintaining populations of fish stocks above biomass levels capable of producing maximum sustainable yield, the maximum sustainable yield exploitation rate shall be achieved by 2015 where possible and, on a progressive, incremental basis at the latest by 2020 for all stocks.”¹⁶

Maximum sustainable yield (MSY)

is defined as the highest theoretical equilibrium yield that can be continuously taken on average from a stock under existing average environmental conditions without significantly affecting the reproduction process.

CFP Regulation Article 4(1)(7)

Multiannual plans to achieve the objectives

The CFP Regulation lists various measures that can be used for the conservation and sustainable exploitation of fisheries resources.¹⁷ One of the most central measures is the adoption of multiannual plans. Such plans should be adopted as a matter of priority, be based on scientific, technical and economic advice, and contain conservation measures to restore and maintain fish stocks above levels capable of producing MSY.¹⁸ The plans should, as a starting point, include, among other things, quantifiable targets such as fishing mortality rates and/or spawning stock biomass; various conservation reference points, i.e. values of fish stock population parameters such as biomass or fishing mortality rate that are consistent with the objectives of the CFP; and safeguard measures to ensure that the quantifiable targets are met.¹⁹

Fishing mortality: the rate at which biomass or individuals are removed from a stock by means of fishery activities over a given period.

Spawning biomass: an estimate of the mass of the fish of a particular stock that reproduces at a defined time.

CFP Regulation Article 4(1)
paragraphs 13 and 35

Multiannual plans have been adopted for several areas, including the Baltic Sea and the North Sea. The plans differ in detail but are based on the same structure and principles.

For the Baltic Sea, a plan for cod stocks was already adopted in 2007.²⁰ It was replaced in 2016 by a multiannual plan which, in addition to cod, also covers herring and sprat.²¹ The extended plan was adopted in the light of advice indicating that the exploitation of certain stocks of sprat and herring was in excess of that required to achieve MSY.²² It was also emphasised that there is a strong biological interaction between cod, herring and sprat and that the size of the cod stock affects the size of the other stocks and vice versa.²³

The plan shall contribute to the achievement of the objectives of the CFP, in particular by applying the precautionary approach and aims

to ensure that fishing is carried out in such a way that fish populations are maintained above levels that ensure MSY. Furthermore, it shall implement the ecosystem-based approach and be coherent with EU environmental legislation, in particular with the objective of achieving good environmental status according to the EU Marine Strategy Framework Directive (MSFD)²⁴ by 2020.²⁵ The requirement to be coherent with the objective of achieving good environmental status under the MSFD also applies to the entire Common Fisheries Policy according to the CFP Regulation.²⁶

The MSFD thus aims to achieve or maintain good environmental status in the marine environment.²⁷ To achieve this, Member States must develop and implement marine strategies that apply an ecosystem-based approach to the management of human activities. The strategies shall ensure that the overall pressure of human activities is kept within levels compatible with the achievement of good environmental status and that sustainable use is enabled for present and future generations.²⁸ What characterises good environmental status is to be determined on the basis of a number of qualitative descriptors listed in the Directive. Some of these are directly related to fisheries and their impact on marine ecosystems.

Descriptors for determining good environmental status:

1. Biological diversity is maintained. The quality and occurrence of habitats and the distribution and abundance of species are in line with prevailing physiographic, geographic and climatic conditions.
3. Populations of all commercially exploited fish and shellfish are within safe biological limits, exhibiting a population age and size distribution that is indicative of a healthy stock.
4. All elements of the marine food webs, to the extent that they are known, occur at normal abundance and diversity and levels capable of ensuring the long-term abundance of the species and the retention of their full reproductive capacity.

MSFD, Annex I.

Actions under the multiannual plan

According to the multiannual plan for the Baltic Sea fishing mortality for the stocks covered should reach so-called F_{MSY} ranges by 2020 and be maintained within them thereafter.²⁹

The idea of the F_{MSY} ranges is that all levels of fishing mortality within the ranges lead to MSY in the long term.³⁰

In addition to the ranges, the plan also refers to so-called conservation reference points. There are two different types of reference points:

- Reference point for spawning stock biomass level, called “MSY $B_{trigger}$ ”³¹
- Limit reference point for spawning stock biomass, called “ B_{lim} ”³²

MSY $B_{trigger}$ is the spawning stock biomass reference point below which specific and appropriate management action is to be taken to ensure that exploitation rates in combination with natural variations rebuild stocks above levels capable of producing MSY in the long term;

B_{lim} is the spawning stock biomass reference point below which there may be reduced reproductive capacity.

Both the F_{MSY} ranges and figures corresponding to the reference points for each stock should be requested from ICES or another independent scientific body.³³

The F_{MSY} ranges are divided into a lower and a higher range. As a starting point, fishing opportunities for the stocks covered by the plan should be set within the lower F_{MSY} range. Only if scientific advice indicates that the biomass of a spawning stock is above the MSY reference point $B_{trigger}$ and if certain other conditions are met,³⁴ may fishing opportunities be set within the upper range. Fishing opportunities may also be set at levels lower than the F_{MSY} ranges.³⁵

Irrespective of the F_{MSY} ranges, fishing opportunities shall be fixed in such a way as to ensure that there is less than a 5 % probability of the spawning stock biomass falling below B_{lim} .³⁶

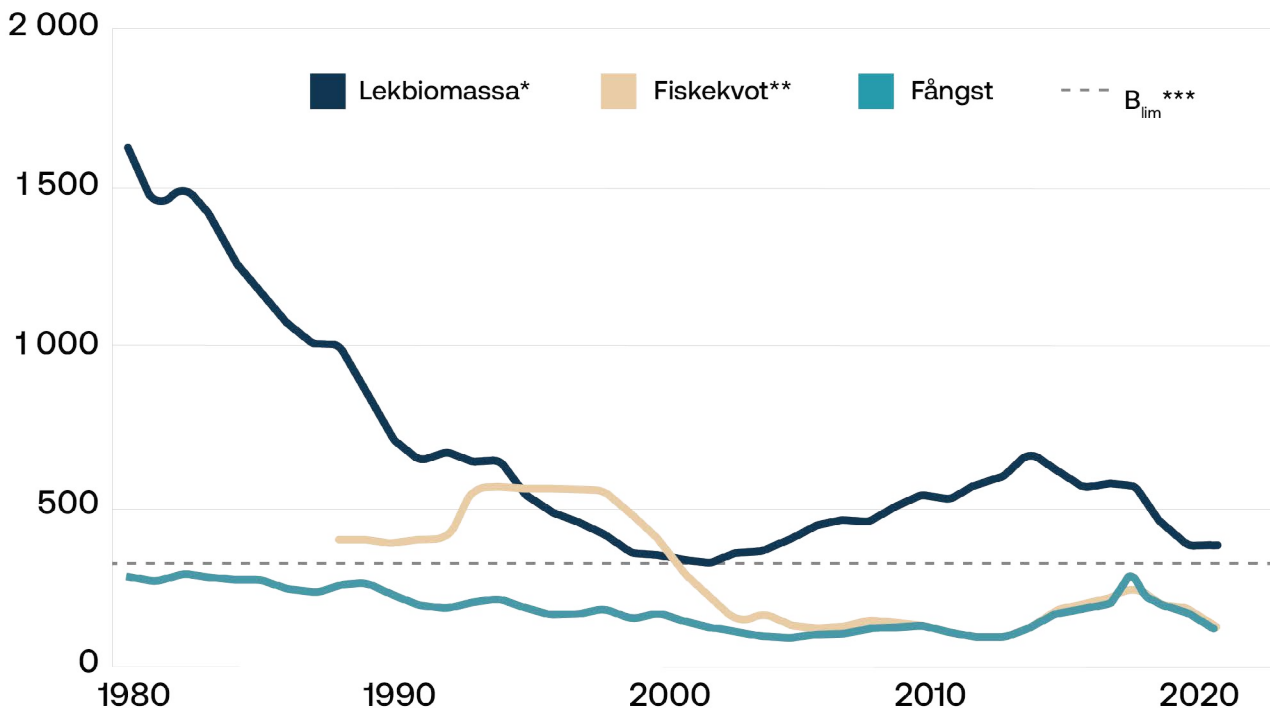
In addition to what has been said above about setting fishing opportunities so that they are consistent with the multiannual plan's objectives and F_{MSY} ranges, there are also requirements to take what are known as remedial measures in certain situations. If the scientific advice indicates that the biomass of a spawning stock is below $MSY B_{trigger}$, then all appropriate remedial measures shall be adopted to ensure rapid return of the stock concerned to levels above those capable of producing MSY . If the advice also indicates that the biomass of the spawning stock is below the limit reference point B_{lim} , then further remedial measures shall be taken to ensure a rapid return to such levels. These measures may include suspending the targeted fishery for the stock and the adequate reduction of fishing opportunities.³⁷

The decision on 2024 fishing opportunities

For the central Baltic herring stock, ICES estimates that the spawning biomass has been below B_{lim} for most of the last 30 years, including the most recent years. Even if there were no catches at all in 2024, the probability of the stock remaining below B_{lim} in 2025 is 22%. As noted above, the Commission proposed to allow no directed fishing and only low levels of unavoidable by-catch.³⁸ The Council decided on a total allowable catch (TAC) of 40 368 tonnes for 2024.³⁹

For the Gulf of Bothnia herring stock, the spawning stock biomass is below the $B_{trigger}$ and ICES estimates that there is a 9% probability that the stock will decline below B_{lim} by 2025 even if no catches are taken. The Commission proposed to allow no targeted fishing and only low levels of unavoidable by-catch to avoid that restrictions on this stock would stop catches of other stocks in mixed fisheries.⁴⁰ The Council decided on a TAC of 55 000 tonnes.⁴¹

Development of herring in the central Baltic Sea (thousand tons)



Lekbiomassa* = Spawning biomass*, Fiskekvot** = Fishing quota**, Fångst = Catch

* The part of the stock that has reached sexual maturity. ** ICES reports historical quotas (TACs) from the late 1980s.

*** Reference value when the spawning biomass is so low that reproduction is threatened, which should lead to further reductions in quotas or closures (ICES). Source: ICES Advice on fishing opportunities, catch, and effort, ICES2022



Analysis and conclusions

The Council has a mandate, based directly on the Treaties (more specifically Article 43(3) TFEU), to decide on total allowable catches (TACs), i.e. how much can be fished from the different stocks each year. However, these decisions must aim to implement the common fisheries legislation and stay within the limits set by that legislation. Even though the Council enjoys a certain discretion when making its decisions, it cannot legally take decisions that go against the requirements formulated in the CFP Regulation and the multiannual plan for the Baltic Sea.

It is clear that the Council's decisions for herring in both the Central Baltic Sea and the Gulf of Bothnia are inconsistent with the requirement of the multiannual plan that fishing opportunities should in all circumstances be set in a way that ensures that there is less than a 5% probability that the spawning stock biomass falls below B_{lim} .⁴² For the Central Baltic Sea stock, ICES has estimated that there is a 22% probability that it will remain below B_{lim} in 2025 even if no catches are taken in 2024, and for the Gulf of Bothnia the corresponding probability has been estimated at 9%. In this respect, the regulatory framework does not allow for any other trade-offs.

It is difficult to see how the CJEU, if the matter came before it, could reach any other conclusion than that the Council acted outside the limits of its mandate by not respecting the so-called 5% rule when deciding on quotas for certain stocks of herring in the Baltic Sea.

Shortly after the Council's decision on the 2024 catch levels for the Baltic Sea, and the

criticism it received, the Commission tabled a proposal to amend the regulation establishing the multiannual plan for the Baltic Sea and remove the 5% rule from it.⁴³ Although it lacks significance in a strictly legal sense, it is easy to interpret this proposal, and its timing, as a recognition by the Council and the Commission that the 5% rule is in fact an obstacle to the type of decisions taken by the Council in October 2023. Even if the 5% rule were to be removed from the plan, which requires the approval of both the Council and the European Parliament, that will not retroactively enable the Council to take decisions that were incompatible with the plan at the time the decisions were made.

In addition to the 5% rule, for both stocks there are also a number of other points where the Council's decisions on total allowable catches can be strongly questioned in terms of consistency with the objectives and principles of the CFP.

In both cases, the quantities decided are difficult to reconcile with the objective of restoring and maintaining stocks above levels that ensure MSY. This level was to be achieved progressively over the period 2015 to 2020 and, after 2020, exploitation is required to be consistent with MSY.⁴⁴ According to the judgement of the CJEU in a case concerning the application of another multiannual plan (the one for "western waters"),⁴⁵ the deadline for achieving a level of exploitation capable of producing MSY "applies strictly and without exception" to the target stocks identified in that management plan. On the other hand, according to the Court, the Council has a margin of discretion, which means that it can balance the various interests which the fisheries policy is intended to achieve, in respect of the stocks

defined in that plan as by-catch stocks.⁴⁶ The multiannual plan for the Baltic Sea does not define herring as by-catch species or stocks.⁴⁷ It is true that they are normally included in so-called mixed fisheries together with sprat and also cod. But if the stocks of these species were therefore to be regarded as by-catch stocks, for which exemptions can be made from the requirement to determine fishing opportunities that are compatible with MSY, it would mean that the requirement essentially loses all meaning for fisheries in the Baltic Sea.

Furthermore, it is difficult to reconcile the Council's decisions, especially the one concerning the central Baltic Sea where the stock is already below B_{lim} , with the requirement to apply an ecosystem approach to fisheries management, since no account seems to have been taken of the effects of fishing on the ecosystems and food webs of which herring is a central part. The fact that the spawning stock biomass is below B_{lim} implies a significant risk that the reproductive capacity of the stock may be reduced, with the effects this may have, including in the long term, on the entire food web.

The decision on catch levels can also be questioned from the perspective of its compatibility with other EU legislation. As mentioned above, the CFP Regulation requires the common fisheries policy to be coherent with the Union's environmental legislation, in particular with the objective of achieving good environmental status under the Marine Strategy Framework Directive, which should have been achieved by 2020. For this to be considered

achieved, it is required, among other things, that the populations of all commercially exploited fish remain within safe biological limits and exhibit a population age and size distribution that is indicative of a healthy stock. The high catch of herring is not, according to scientific advice, within safe limits, at least not to the extent that the spawning biomass is or is at risk of falling below B_{lim} . It is also well documented that fishing has a significant impact on the age structure of the stocks and that the herring stocks in fact consist of a number of genetically distinct populations, which is not taken into account in the current TAC decisions.

Finally, it is highly questionable whether "all appropriate remedial measures" have been taken to ensure that the stocks quickly return to levels above those capable of producing MSY, as required for all stocks below the MSY $B_{trigger}$, i.e. both the Central Baltic herring stock and the one in the Gulf of Bothnia, and whether additional remedial measures are also taken as required when a stock, such as the herring in the Central Baltic Sea, is already below B_{lim} .

In conclusion, therefore, the compatibility of the Council's decision with the legally superior common fisheries legislation can be called into question on a number of points, the most obvious incompatibility being the failure to set fishing opportunities at levels which ensure that there is less than a 5 % probability of the spawning stock biomass falling below B_{lim} , which should also, on judicial review, lead to the annulment of the decision.



BalticWaters is an independent foundation engaged in efforts to improve the Baltic Sea environment. The foundation conducts large-scale environmental projects with focus on action-oriented measures, and applied research to show which measures can contribute to a healthier sea and viable fish stocks. The projects are carried out on land, along the coast, and in the sea. BalticWaters also develops and disseminates knowledge about the Baltic Sea to the general public, governmental authorities, and decisionmakers. The aim is to increase knowledge about the challenges facing the sea and build public opinion so that decisions are taken, and measures are implemented.

References

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- 2 Proposal for a Council Regulation fixing the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea for 2024 and amending Regulation (EU) 2023/194 as regards certain fishing opportunities in other waters, Brussels, 28.8.2023, COM(2023) 492 final.
- 3 Regulation (EU) 2023/2638, Article 4 and Tables 1 and 3.
- 4 One nautical mile is 1853 metres. To be precise, the zones are calculated from the so-called baseline, which is usually the same as the coastline at low tide. In some situations, the coastal state may instead use so-called straight baselines, which means drawing lines connecting appropriate points, which may be the outermost part of islands adjacent to the coast.
- 5 Penas Lado, E., *The Common Fisheries Policy: The Quest for Sustainability*, Hoboken, Wiley-Blackwell, 2016, p. 24.
- 6 Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC, OJ L 354, 28.12.2013, p. 22 ("CFP Regulation").
- 7 MSY is defined as the highest theoretical equilibrium yield that can be continuously taken on average from a stock under existing average environmental conditions without significantly affecting the reproduction process. CFP Regulation, Article 4(1)(7).
- 8 CFP Regulation Article 2(3).
- 9 Formally, the exclusive competence covers 'the conservation of marine biological resources under the common fisheries policy', which means the regulation of fishing itself but not the market for fisheries products. Article 3 of the Treaty on the Functioning of the European Union (TFEU).
- 10 CFP Regulation Article 5(1) and Article 4(1) paragraphs 1 and 5.
- 11 Penas Lado, E., *The Common Fisheries Policy: The Quest for Sustainability*, Hoboken, Wiley-Blackwell, 2016, pp. 49-50.
- 12 Treaty on European Union, Article 5(2).
- 13 Joined Cases C-103/12 and C-165/12 Parliament and Commission v Council ECLI:EU:C:2014:2400, paragraph 50.
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- 21 Regulation (EU) 2016/1139 of the European Parliament and of the Council of 6 July 2016 establishing a multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea and

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- 22 Regulation 2016/1139, fifth recital.
- 23 Regulation 2016/1139, sixth recital.
- 24 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"] [2008] OJ L 164, 25.6.2008, p. 19.
- 25 Regulation 2016/1139, Articles 3(1) and 3(3).
- 26 CFP Regulation, Article 2(5)(j).
- 27 MSFD, Article 1(1)
- 28 MSFD, Article 1(2) and (3).
- 29 Regulation 2016/1139, Article 4(1).
- 30 For the exact definition of the FMSY range see Regulation 2016/1139, Article 2 point 2.
- 31 Regulation 2016/1139, Article 2(9).
- 32 Regulation 2016/1139, Article 2(8).
- 33 Regulation 2016/1139, Articles 4 and 4a.
- 34 This may include the need to achieve the management's overall objective of a mixed fishery.
- 35 Regulation 2016/1139, Article 4(3)-(5).
- 36 Regulation 2016/1139, Article 4(6).
- 37 Regulation 2016/1139, Article 5.
- 38 Proposal for a Council Regulation fixing the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea for 2024 and amending Regulation (EU) 2023/194 as regards certain fishing opportunities in other waters, Brussels, 28.8.2023, COM(2023) 492 final.
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- 40 COM(2023) 492 final.
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- 43 Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) 2016/1139, (EU) 2018/973 and (EU) 2019/472 as regards the objectives for setting fishing opportunities, 6.12.2023, COM(2023) 771 final.
- 44 CFP Regulation, Article 2(2).
- 45 Regulation (EU) 2019/472 of the European Parliament and of the Council of 19 March 2019 establishing a multiannual plan for stocks fished in the Western Waters and adjacent waters, and for fisheries exploiting those stocks, amending Regulations (EU) 2016/1139 and (EU) 2018/973, and repealing Council Regulations (EC) No 811/2004, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007 and (EC) No 1300/2008, OJ L 83, 25.3.2019, p. 1.
- 46 Case C-330/22 Friends of the Irish Environment CLG ECLI:EU:C:2024:19, paragraph 75.
- 47 In contrast, plaice, flounder, turbot and brill are specifically identified as species caught as by-catch. Regulation 2016/1139, Article 6.