



On behalf of ClientEarth, Oceana, Seas At Risk, Our Fish and Sciaena, we are writing to express our serious concerns about a plenary vote happening next Monday 14 February in the European Parliament: a motion for a resolution on the [Commission Delegated Regulation of 5 November 2021 regarding inadmissibility periods for applications for EMFAF support](#).

This Delegated Act already went through Council scrutiny without any problem, and we urge you to follow the same line and **to reject the motion for a resolution tabled by the PECH Committee**.

**The Delegated Act proposed by the European Commission** proportionately restricts access to EU funds for fishing operators who have engaged in illegal fishing or who commit serious infringements of Common Fisheries Policy (CFP) rules. This delegated act will be key to establishing a culture of compliance and ensuring that EU citizens have trust in EU rules and know their taxes do not end up in the pockets of fishing operators who commit serious offences.

#### **1. The changes suggested by the PECH Committee would be unlawful**

A Delegated Act cannot modify the legislative act upon which it is based. The resolution adopted by PECH, however, ignores this and tries to invalidate the inadmissibility provisions found in Article 11 of Regulation 2021/1139 (European Maritime Fisheries and Aquaculture Fund, EMFAF). According to this inadmissibility rule, fishing operators' funding applications become inadmissible after two or more serious infringements to the rules of the CFP have been committed. That inadmissibility period shall last for a period of at least one year.

**The changes suggested in the PECH draft resolution would be unlawful as they would reduce, in a delegated act, the period of inadmissibility for certain serious infringements below the one-year threshold provided for in the EMFAF Regulation.**

#### **2. Citizens would not support the European Parliament facilitating access to EU funds to illegal fishers**

The PECH draft motion expresses concerns about situations where certain serious infringements automatically trigger the inadmissibility period of at least one year. Infringements which could lead to this situation include very serious infractions such as: fishing without a licence or participating in joint fishing operations with illegal vessels.

These types of serious offences should indeed prevent operators from accessing EU funds for a period of at least 14 months (as provided in the Commission delegated act). **EU citizens would be flabbergasted to see fishing operators engaged in these serious violations receiving EU funds only seven months after the offence, as proposed by the unlawful PECH resolution. In people's everyday lives, actions have proportionate consequences.** No one will understand why it should be different for illegal fishing operators.

### **3. The proposed Delegated Regulation respects the proportionality principle**

It should be noted that under EU and national laws, serious infringements against EU fisheries rules are not automatically sanctioned: national criteria regarding the seriousness of the infringement, its recurrence, and its duration in time have been adopted to determine exactly whether an infringement qualifies as serious. Therefore, minor infringements would not be considered serious and would not make applications from the fishing operators concerned inadmissible.

Determining which infringements are serious is a balancing exercise conducted at the national level which integrates the need to apply proportionate sanctions. **Instead of integrating a second and contradictory proportionality test in this delegated regulation,** the EP should rather strengthen and harmonise the system, as recent studies have demonstrated that the rules and sanctions are not being implemented equally across the EU.

**We count on your support and that you will reject the motion for a resolution this Monday.**