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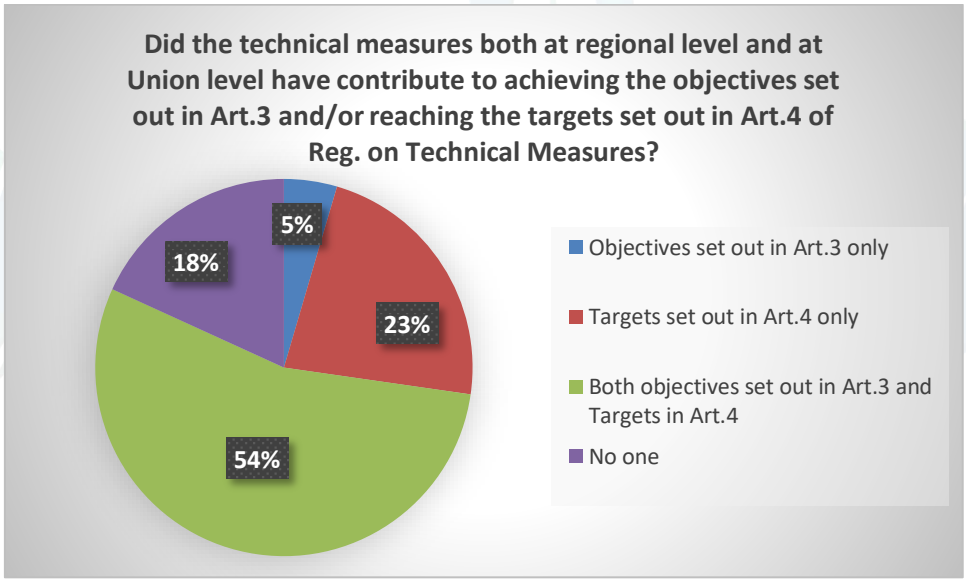
Ref.:50/2021 Rome, 2 March 2021

MEDAC CONTRIBUTION QUESTIONNAIRE ON TECHNICAL MEASURES (ART 31.1. of EU REGULATION 2019/1241)

24 MEDAC members filled out the questionnaire, both from professional and OIGs sector.

1. *Even though the Regulation on Technical Measures has only entered into force recently, the Advisory Council's views are welcome on whether technical measures both at regional level and at Union level have contributed to achieving the objectives set out in Article 3 and reaching the targets set out in Article 4 of that Regulation.*

In the Mediterranean Sea the measures already in place (EU Reg 1967/2006 - Mediterranean Regulation) were not modified. Therefore, the way toward the objectives of EU Reg. 1380/2013 has been carried on, with particular emphasis on the landing obligation.



The comments of the AC members on this topic generally agree that more time is needed to understand whether technical measures both at regional level and at Union level have contributed to achieving the objectives set out in Article 3 and reaching the targets set out in Article 4 of that Regulation. Although some of the MEDAC members noted that these new measures will help to avoid accidental catches and catches of juveniles and help to protect sensitive habitats, other observations were raised up in order to highlight the following potential weaknesses and potential opportunities:

- The targets of art.4 have been reached because they are consistent with the functioning of fishing enterprises, while the achievement of the objectives listed in the Art.3 compromises too much the economic viability of fishing activities. In general, the Technical Regulation has improved the fisher's mentality in relation to the targets and objectives set in both articles, as highlighted by the FAO results on the slight improvement of stock status.

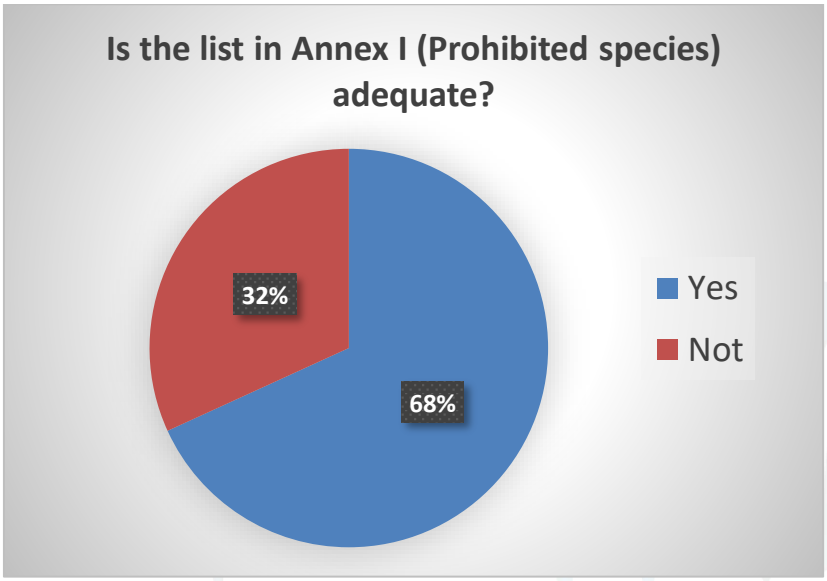
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- The regionalization should support the development of "joint recommendations" on gear modifications and use of area or temporal protection without a patchwork approach in order to avoid discarding and the need of exemptions. The selectivity should be improved.
- Technical measures and their modifications should be focused only on certain species and gears through the MAPs.
- The fishers' opinions should be more taken into account in order to improve compliance.

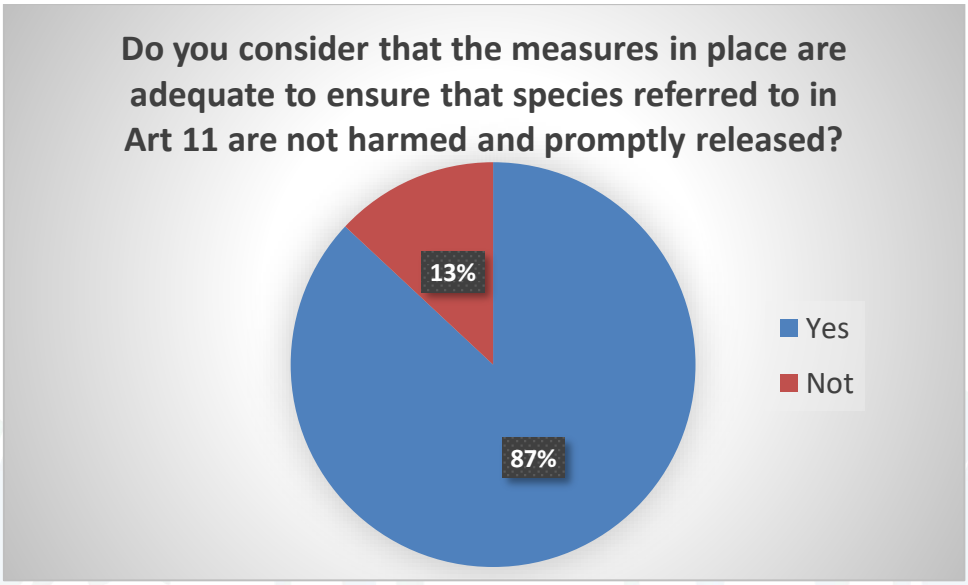
2. *Does the Advisory Council consider that the list in Annex I (Prohibited species) is adequate? If not, what should be amended? (please provide a brief explanation)*



The suggestions raised up by some of the MEDAC members on the list in Annex I are the following:
- Sharks and rays: an additional 18 species should be included in Annex I as a matter of harmonization with Recommendations 36/2012/3, now 42/2018/2, and Article 11 (2) of this Protocol to the Barcelona Convention (14 species), because of their conservation station listed on IUCN Red List as endangered or critically endangered (4 species) and for Harmonization with ICCAT Rec (1 species).
14 species are prohibited under the GFCM Rec but not included in the Annex I of the TCM . An additional 3 species should be included in Annex I due to their conservation status (CR or EN), and additional one species should be included for harmonization with ICCAT prohibition. Furthermore, more endangered species are indicated by CITES in Mediterranean Sea. Finally, the already existing EU regulations aimed to protect species of elasmobranchs and other species should be referred in the TM Regulation, such as: Reg. EU 2017/2107, Reg. EU 1343/2011, Reg. 2021/92.
The process of alignment should be clear: it could be done more automatically through the update of the annex/delegated acts/TAC and quotas regulations.
- Prohibited species, including *Galeorhinus galeus* and *Epinephelus marginatus*, and others on the basis of updated stock assessments should be added to the list. Among others, *Pristis pectinata* and

Pristis pristis should be added to the list of prohibited species. Special attention should be paid to *Squalus achantias*, due to its reproductive behaviour.
- It is important that the list was split in two: one part remains in the Technical Measures regulation (very sensitive species) and the other in the T&Q regulation, so it remains flexible.

3. *Does the Advisory Council consider that the measures in place are adequate to ensure that species referred to in Art 11 are not harmed and promptly released?*



4. *Has the Advisory Council been involved in any scientific research envisaging the use of accidentally caught marine mammals, seabirds?*

The Advisory Council has not been directly involved, however some updates on scientific research have been reported by MEDAC members during the working groups and/or sharing the information by email.

5. *Is the Advisory Council aware of any mitigation measures or restrictions on the use of certain gear that Member States have put in place aimed at minimising or where possible eliminating the catches of mammals, seabirds and marine turtles?*

The AC's members reported the following existing mitigation measures, and the related potential issues on their effectiveness in minimizing or eliminating the catches of mammals, seabirds and marine turtles in the Mediterranean Sea:

- Some EU fisheries are using TED. However, non-EU operators can export to the EU without TED. This creates an unfair competition in addition to putting endangered species at risk.
- In Portugal it is now mandatory to use acoustic deterrent devices in beach seines, because of their impact on cetaceans, especially common dolphins, and harbour porpoises.

- It was prohibited until 100nm of Azores to use wire leaders to increase shark catches.
- Longline vessels operating in the Atlantic (including in NEAFC waters), have adopted measures to avoid bycatch of seabirds and turtles. Avoiding use of exterior lights during night-setting, use of tori-lines, live release of captured specimens, data capture and other actions are in place.
- Sweden, Denmark and Germany have had projects evaluating potential mitigation measures, such as trials with pingers, seal safe gears and pots. These pilot studies on alternative gears show interesting results but, in general, the efforts have been insufficient, and results are often not shared beyond national borders.
- There are already measures in place to minimise the catches of mammals (use of pingers in the Bay of Biscay for French trawlers since 2019 for example). Projects are currently underway in the Bay of Biscay to test solutions for reducing bycatches of common dolphins by netters: pingers, acoustic reflectors (LICADO, DolphinFree projects). A joint recommendation has been written by the South Western Waters group in 2020 to reduce common dolphin accidental catches. The SWW AC has already written two advices on the matter, the second one in late 2020.
- In the Mediterranean Sea, trials had been led by the AMOP and the SATHOAN Producer Organisations on the reduction of accidental catches of seabirds and marine turtles and a good practice guidance for the release of these catches produced. Moreover, trials for minimising bycatches of Balearic Shearwater will also be carried out in pilot sites in the Western Channel, Bay of Biscay and the Mediterranean.
- in Italy training courses have been activated for fishermen on how to handle sea turtles and mammals with a guideline book and the support of experts.

6. *Is the Advisory Council involved in any proposal to amend Annex II (Closed areas for protection of sensitive habitats)? If so, please provide a brief explanation.*

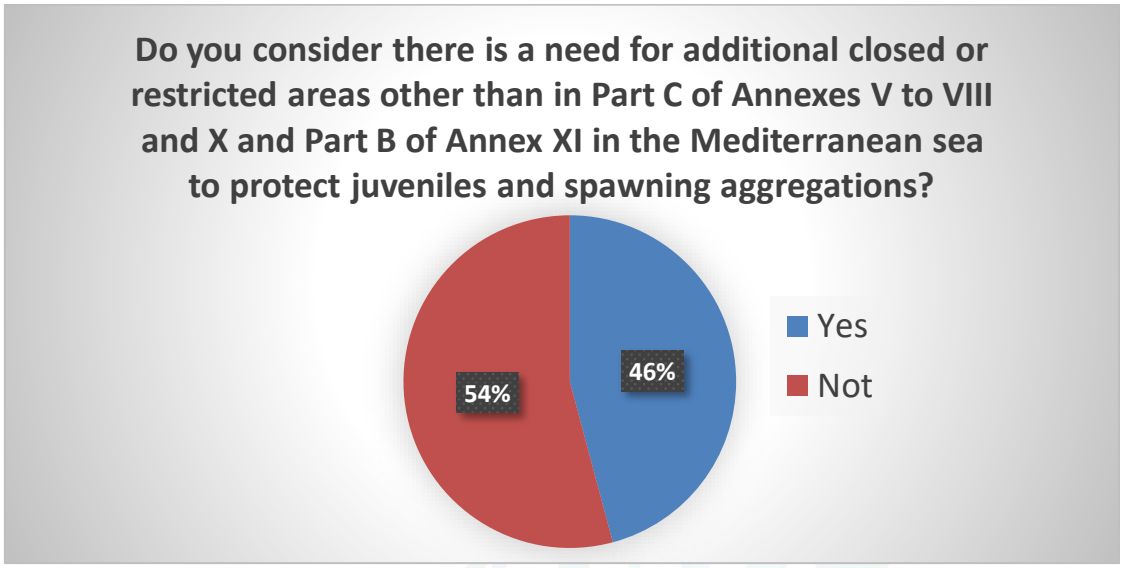
No, the proposal of additional FRAs were supported by one MEDAC members in 2018 and then the MEDAC opinion on the proposed areas has been sent to DG MARE.

7. *Is the Advisory Council involved in any pilot project for the avoidance of unwanted catches? If so, please provide a brief explanation.*

No, the Advisory Council is not involved in any pilot project on this topic, however the scientific experts of IMPLEMED project attended the MEDAC meeting in February 2020 in order to explain the activities planned for the selectivity improvement.

8. *Does the Advisory Council consider there is a need for additional closed or restricted areas other than in Part C of Annexes V to VIII and X and Part B of Annex XI to protect juveniles and spawning aggregations? If so, provide a brief explanation.*

Although the Mediterranean is not considered in the reported Annexes, the question has been posed to the MEDAC members and the answers have been reported in the graph below.

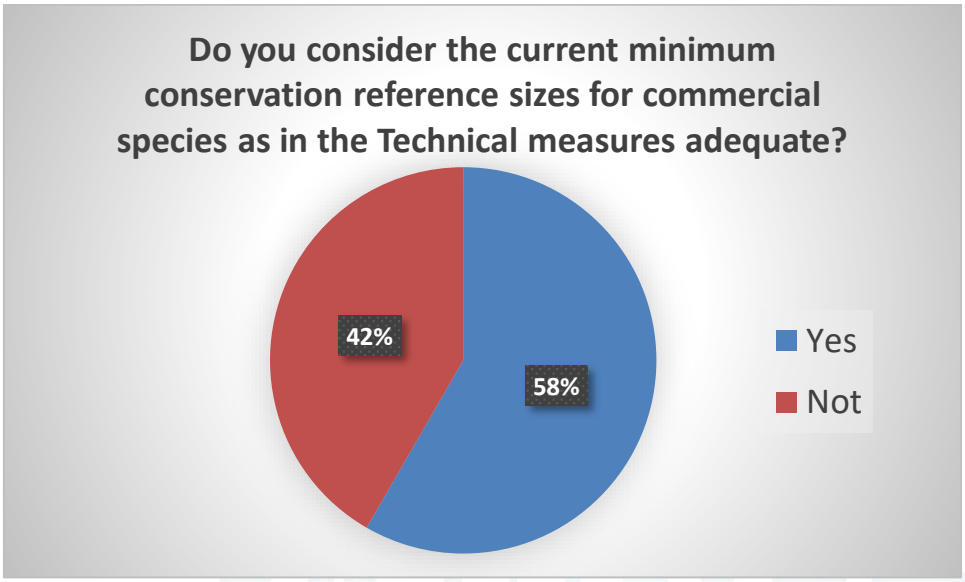


*Note: *HGK replied both yes and not*

Furthermore, some of the MEDAC members added the following comments on the need for additional closed or restricted areas other than in Part C of Annexes V to VIII and X and Part B of Annex XI to protect juveniles and spawning aggregations:

- The success of the already existing FRAs underpins the replication of this measure in other areas of the Mediterranean. However, some members highlighted that new scientific information on the interested areas are needed before the establishment of new FRAs, both onshore and offshore. The spatio-temporal closures of nursery areas can provide better results than the reduction of fishing days in protecting natural resources.
- Some members suggested the extension of the fishing ban in the coastal strip where the bathymetric allows it, especially to the most impacting gears.
- Considering the differences between Mediterranean subregions and subareas, and the wide variety of fishing gears, the spatio-temporal closures should be featured on the basis of each situation. Moreover, the juvenile protection and the spawning areas should be managed separately.

9. *Does the Advisory Council consider the current minimum conservation reference sizes for commercial species as in Part A of Annexes V to X adequate? If not, please provide a brief explanation why not and whether the Advisory Council sees a need to amend established sizes or introduce additional ones.*



*Note: *HGK replied both yes and not*

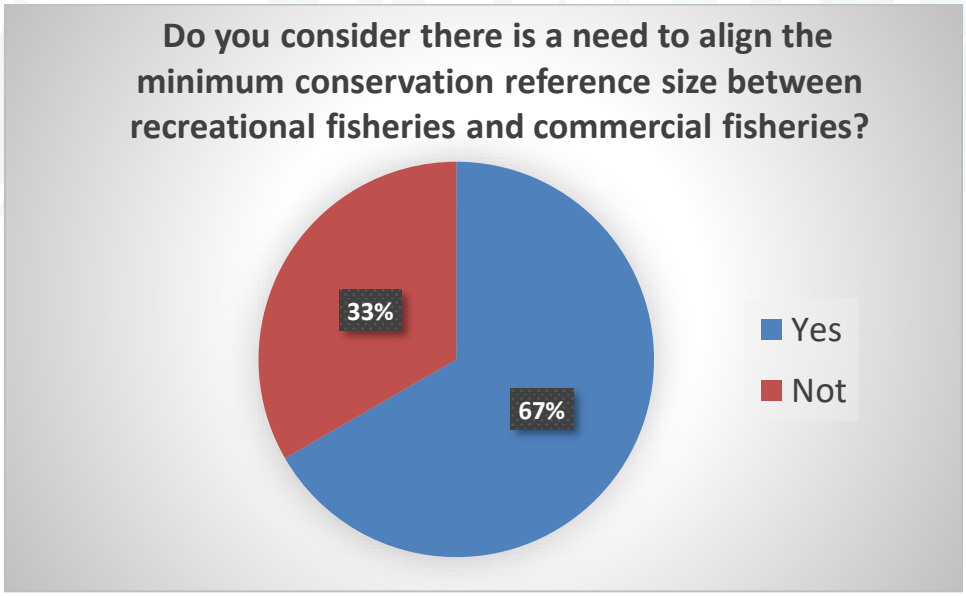
Each of the MEDAC members contributing to the questionnaire and that answered "not" provided its opinion on potentially useful amendment to the established sizes:
- the minimum conservation reference size should be adapted to size at first maturity (WWF and IFSUA).
- CNPMEM supported the opinion and JR adopted by some Northern ACs: such as in the NWW AC the increase of MCRS of sole up to 25cm in ICES area 7d and in the SWW AC from 35 mm to 32 mm in Bassin d'Arcachon (ICES areas VIII) for the short-necked clam.
- the MCRS of *Trachurus spp* should be reduced to 11 cm in order to decrease discards (EMPA and FACOPE).
- MCRS should be adopted also for the following species, according to EAA contribution: *Coryphaena hippurus, Dentex dentex, Lichia amia, Loligo vulgaris, Merlangius merlangius, Pomatomus saltatrix, Sciaena umbra, Scorpaena scrofa, Sepia officinalis, Seriola dumerilii, Spicara flexuosa, Umbrina cirrosa, Zeus faber*. MCRS should be increased for *Dicentrarchus labrax, Epinephelus spp, Merluccius merluccius, Pagrus pagrus, Sparus aurata* and *Trachurus trachurus* on the basis of the most updated scientific results (some of these MCRS have been suggested by FIPSAS-CIPS and the others by EAA).
- other MCRS were suggested, according to the following information: *Sciaena umbra* 35 cm because it spawns at 15,5-15,7 cm; *Dentex dentex* 35 cm because it spawns at 15,4-15,6 cm; *Diplodus sargus* 28 cm because it spawns at 15,3-30,4 cm; *Dicentrarchus labrax* 30 cm; *Dentex gibbosus* 40 cm; *Seriola dumerilii* 45 cm; *Diplodus puntazzo* 26 cm because it spawns at 23 cm; *Epinephelus spp* 45 cm; *Zeus faber* 30 cm; *Scorpaena scrofa* 30 cm; *Octopus vulgaris* 1 kg (CFOSA). Furthermore, an increase of MCRS of *Sardina pilchardus* and *Engraulis encrasicolus* is suggested (ZZRS).

- Considering the lack of MCRS for cartilaginous fishes and for some fishes, a recommendation about the release of juveniles of commercial interest should be adopted (FIPSAS – CIPS).
- MCRS have to be modified considering on what the future MAPs will be based on (HGK).

Notes: PEPMA fully disagrees with the minimum conservation reference size considering that: 1) the fishery of spawners is an incorrect approach because it affects the pyramid of fishery resources; 2), the undersized catches are unavoidable in the Mediterranean: the waste of this important nutritional source is a mistake both in case of discarding at sea or of landing obligation, and 3) multispecies fishery doesn't allow an effective selectivity in the whole Mediterranean sea.

10. *Does the Advisory Council consider there is a need to align the minimum conservation reference size between recreational fisheries and commercial fisheries? If so, please provide a brief explanation.*

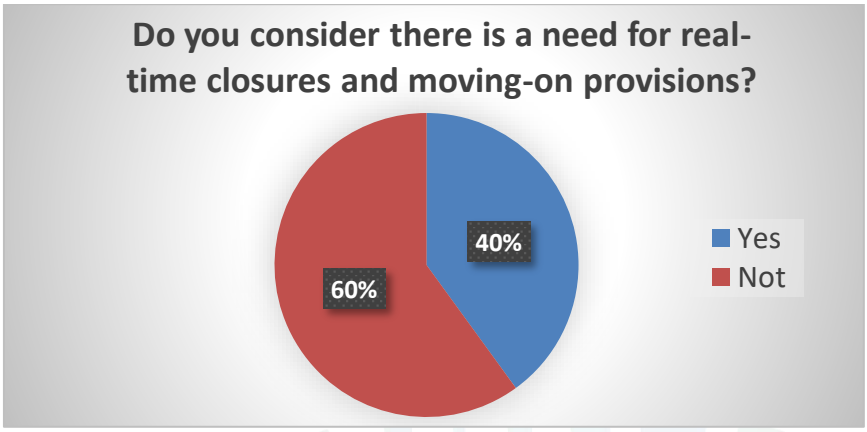
The MEDAC opinions and letters ref.219/2019 (and the related ref.218/2019 and ref.335/2019), as well as the opinion ref.62/2020 (and the related reply ref.92/2020) highlight the support by the Advisory Council to align the minimum conservation reference size between recreational fisheries and commercial fisheries. However, the question has been posed to the members in order to collect also the related explanations.



The opinions supporting or against the alignment of MCRS are the following:
- because the MCRS is set for biological reasons (e.g. to protect mature/larger fish in general that are considered spawners): the technical rules should be the same, especially when the recreational fishers use professional gears, or similar ones. In fact, the current national legislation in France already provides that MCRS of RF cannot be less restrictive than for commercial fisheries.
- Some members support the idea that Recreational MCRS could be more restrictive as recreational fishermen are not subject to the same rules as professional fishermen (license, quota, etc.)

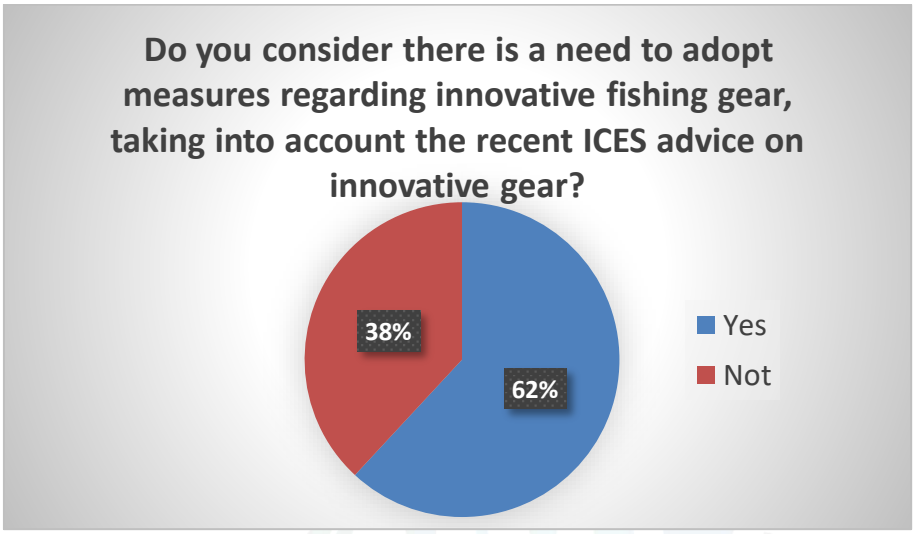
- Anglers catch individual fish, then alternative approaches can be applied, such as the release of larger specimens or spawners caught close to spawning grounds. Otherwise, a regulation forcing all areas and all types for fishing activity to use the same MCRS would be damaging to such local efforts.

11. *Does the Advisory Council consider there is a need for real-time closures and moving-on provisions? If so, please provide a brief explanation.*



The members contributing to this question explained their replies adding the following information:
- the real time closures and moving-on provisions will be needed:
    - in case of stocks managed with input approach (TAC),
    - in spawning grounds, especially considering that changes in spawning patterns due to fast ocean parameters changes call for prompt action,
    - when scientifically underpinned and agreed with the interested fishers, always considering an effective socioeconomic support to the sector.
- The current regulation and the regionalisation process give member states a useful tool. For the Celtic Sea, some useful RTCs were suggested but not kept in the JR.

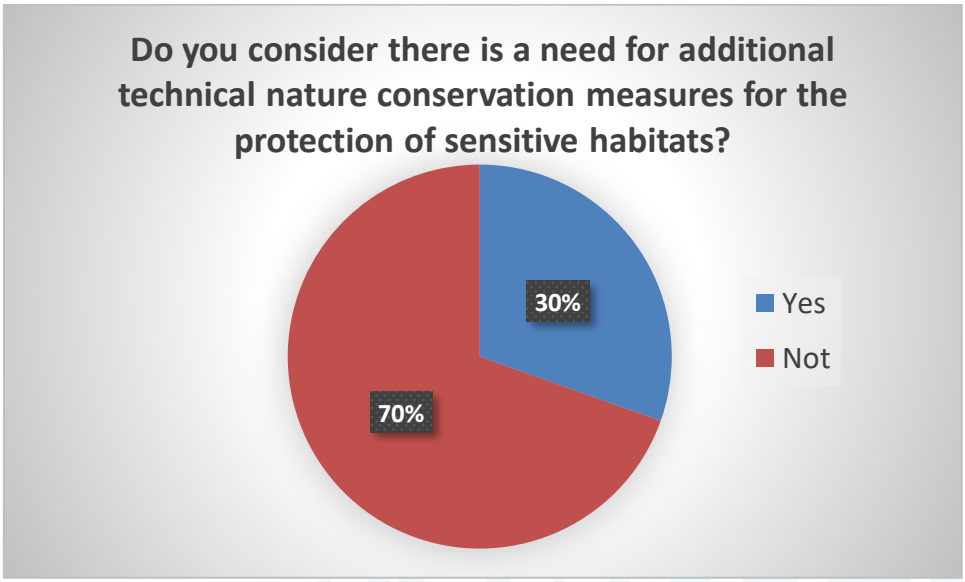
12. *Does the Advisory Council consider there is a need to adopt measures regarding innovative fishing gear, taking into account the recent ICES advice on innovative gear? If so, please provide a brief explanation.*



The following opinions on measures regarding innovative fishing gears have been raised up by some of the MEDAC members:

- ICES recent advice shows that there are viable options to currently allowed gears, meaning available science indicates that negative effects can be reduced. Although fishers signal that they appreciate the ICES advice, they do not want ICES and scientists to develop gears because they often miss practical implications and other unforeseen effects. Regardless, the process from innovation and new knowledge to reach practical use is far too slow.
- Innovative gears are needed to increase the selectivity performance considering the scientific results and the viability of the fleets.
- It is extremely difficult to invent a gear that reduces or eliminates bycatch of unwanted catch (in the Baltic case, mainly cod or flatfish) and still maintains economic viability as well as reduced negative bottom impacts. We support results-oriented thinking and prefer rules to imply a target that must be reached for the gears used, limited impact, % bycatch etc. Gear modifications can then be encouraged based on some minimum standards.
- the need of a clear distinction between professional and recreational/sport fishery is raised up in order to address the issue of innovative fishing tools in both sectors.

13. *Does the Advisory Council consider there is a need for additional technical nature conservation measures for the protection of sensitive habitats? If so, which measures for which habitats?*



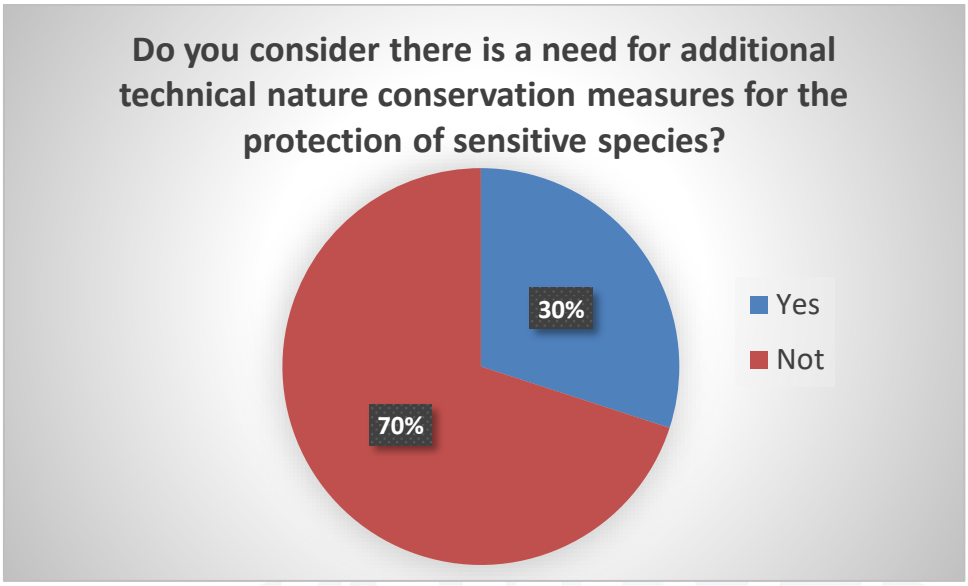
Some of the MEDAC members suggested the following measures:
- The protection of sensitive habitats shall take into account the demographical pressure, climate change, water pollution, the alien species and maritime traffic, more than fishing activities only.
- Habitats that are listed as particularly important or rare are targeted somewhat via the existing EU rules in place (such as the Habitats Directive) or in MPAs. However, coastal sensitive habitats and the more widespread and normally productive sea areas on the coast or in the open ocean are also in need of protection. Trawl free areas should be part of the technical measures tool box used to protect them.
- No additional measures are needed now. However, technical measures should be decided at the local level, depending on the habitat conservation status and fishing activities concerned.
- Mainly for trawling to protect spawning areas and nurseries.
- More activity controls should be carried out.

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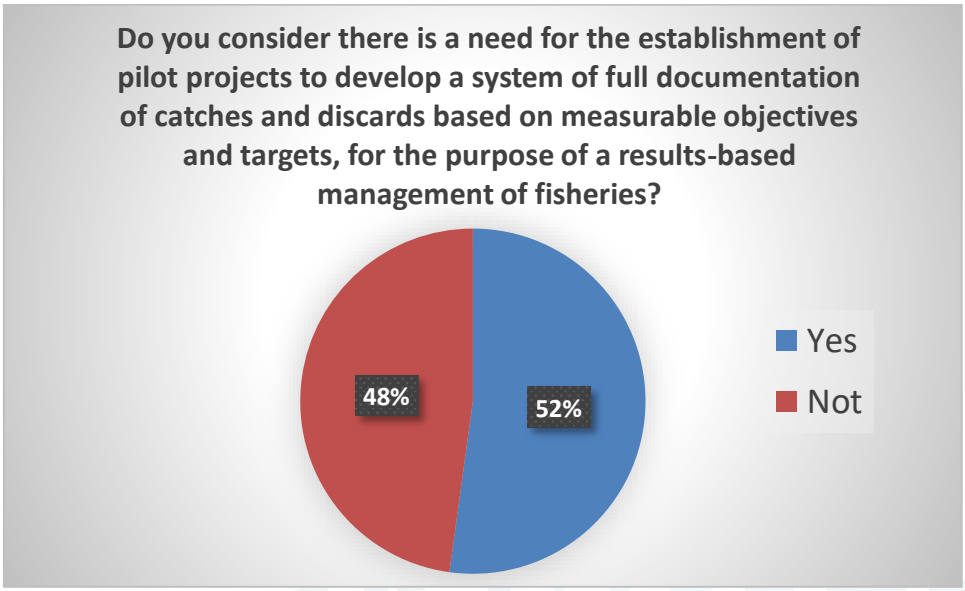
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14. *Does the Advisory Council consider there is a need for additional technical nature conservation measures for the protection of sensitive species? If so, which measures for which species?*

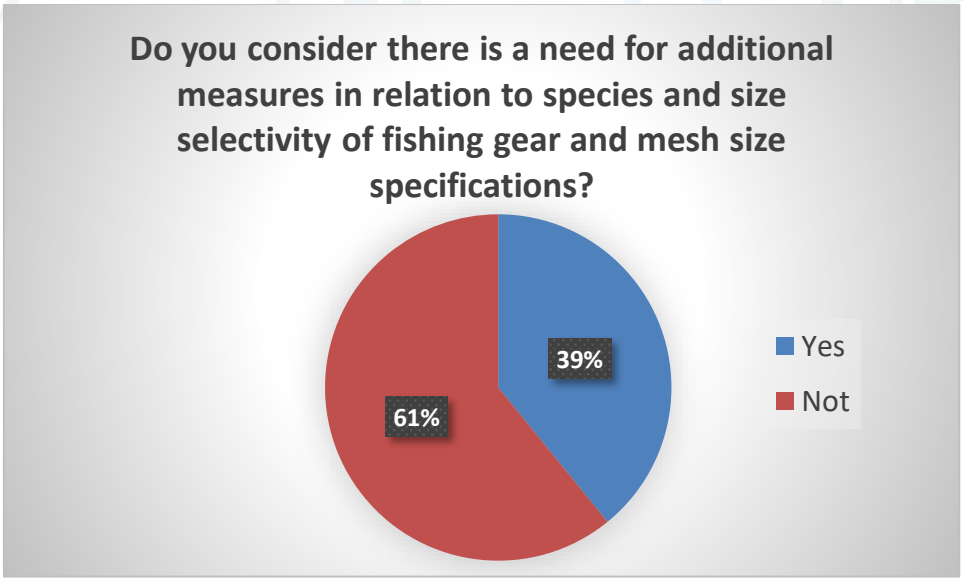


Some of the MEDAC members suggested the following measures:
- The protection of sensitive species shall take into account the anthropic demographical pressure, water pollution, the alien species and maritime traffic, more than fishing activities only.
- to reduce mortalities from elasmobranch population of conservation concern and to ensure that the minimum standards for safe handling and live release procedures, such as published by FAO http://www.fao.org/3/i9152en/I9152EN.pdf or other recognized advices available at https://www.bmis-bycatch.org/index.php/mitigation-techniques/safe-handling-release.
Furthermore: the prohibition of wire leaders in longline fisheries, the minimum standard guidelines to increase survival chances in elasmobranchs, stopping the vessel or reducing the speed substantially to avoid the gear to further injure the animal (e.g. through trailing gear), the avoidance of removal of the alive shark from the water boat side, while safely removing the gear. Techniques aimed to reduce the impact of fishing gears on sharks to be released should be implemented.
- further research be carried out on technological solutions, including pingers, to avoid incidental bycatches of cetaceans. Furthermore, careful consideration may be given to spatial/temporal closures especially taking into account that the state of common dolphin population needs such drastic. These must be based on scientific evidence.
- Training courses of fishermen and collaboration between fishermen and scientist.
- More activity controls should be carried out.

15. *Does the Advisory Council consider there is a need for the establishment of pilot projects to develop a system of full documentation of catches and discards based on measurable objectives and targets, for the purpose of a results-based management of fisheries?*



16. *Does the Advisory Council consider there is a need for additional measures in relation to species and size selectivity of fishing gear and mesh size specifications? If so, why and how?*



*Note: *HGK replied both yes and not*

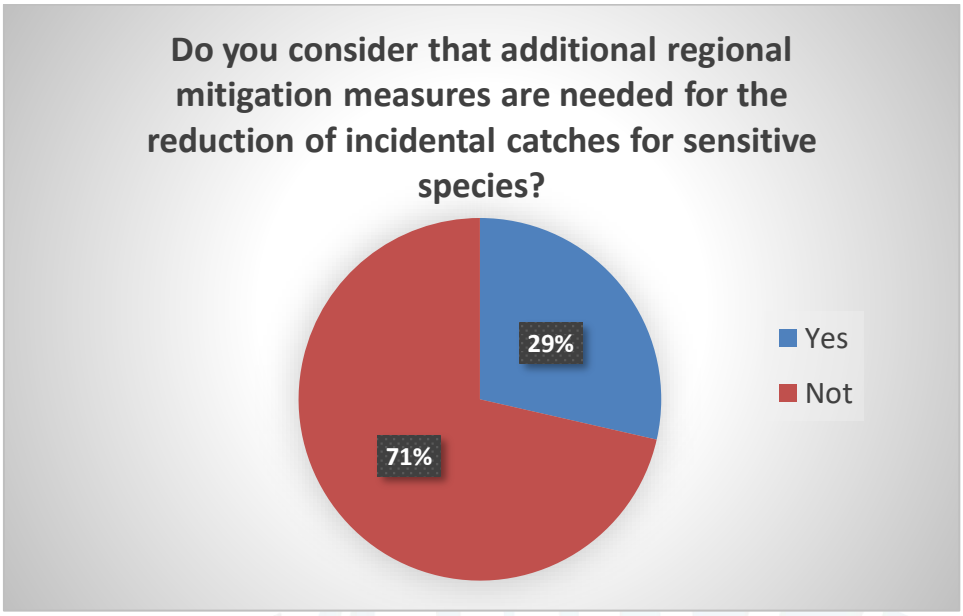
Some of the MEDAC members raised up the following information related to the need for additional measures in relation to species and size selectivity:

- In the Mediterranean: IMPLEMED is testing T90 for improved selectivity in Spain, Croatia, Italy. It is a follow up of the wider project MINOUW (http://minouw-project.eu/).
- The implementation of gears selectivity already studied by research projects should be more encouraged.
- Additional measures are needed in order to comply with the MCRS.
- One MEDAC member highlighted that the additional measures should reduce the length of fishing gears, introduce hunting stops and new closed areas. Management measures should be implemented also for recreational fishers especially when overlap with coastal and professional fishing.
- The current measures on species and size selectivity are already adequate, however more controls should be carried out in order to assure compliance.

17. *Is the Advisory Council involved in the preparation of a Joint Recommendation in order to further define the term 'directed fishing' for relevant species in Part B of Annexes V to X and Part A of Annex XI? If so, please describe.*

The MEDAC has already sent its proposal of joint recommendation on "Direct fishery" (opinion ref. 60/2020 and reply Ref. 102/2020). Referring to the Annex IX of the Regulation on Technical Measures, the MEDAC deemed that what was already provided in the Mediterranean regulation should be pursued and that therefore:
1) For the purposes of the provisions of Annex IX, part B, paragraph 1, it is considered "direct fishing" of anchovy (*Engraulis encrasicolus*) and sardine (*Sardina pilchardus*) when these species represent at least 80% of the catches in live weight measured after sorting
2) For the purposes of the provisions of Annex IX, part C, paragraph 6, it is considered "direct fishing" for the red sea bream (*Pagellus bogaraveo*), when this species represents at least 20% of the catches in live weight.
Moreover, MEDAC once again drawn attention to the issue of limitations to the height of purse seines (see art.13.3, 2nd sentence of Reg.(EC) 1967/2006) that causes technical difficulties, particularly in certain low-depth areas (i.e. north Adriatic sea), considering also the studies clearly demonstrating the absence of environmental impact, as repeatedly reported in the MEDAC past positions. (MEDAC opinions ref. 102/2017, 13/3/2017; ref.128/AV , 11/09/ 2015).

18. Does the Advisory Council consider that additional regional mitigation measures are needed for the reduction of incidental catches for sensitive species? If so, what measures?



Some of the MEDAC members raised up the following opinions on additional regional mitigation measures needed for the reduction of incidental catches for sensitive species:

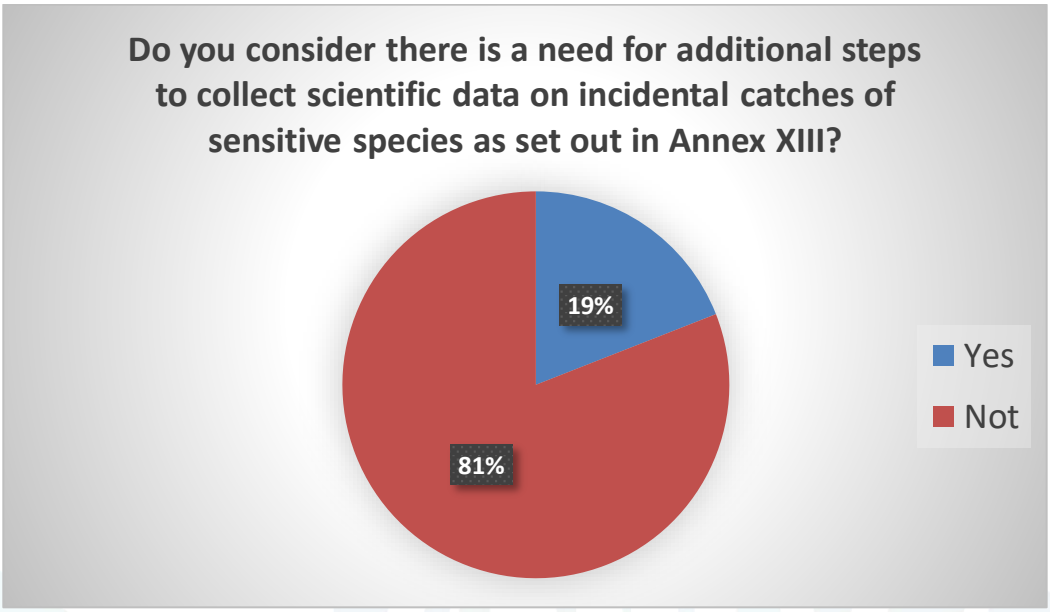
- Seasonal/spatial closures in critical habitats, such as nurseries.
- Strategies for protected elasmobranch species must be adopted.
- The extension of bycatch mitigation measures to a more appropriate range of fishing gear types are required, including passive gears, driftnet, pelagic trawl, demersal trawl, or other fisheries where monitoring identifies bycatch.
- Using the Advice provided by ICES, EU Commission should ensure Member State compliance with implementation of Habitats Directive and Common Fisheries Policy monitoring and bycatch prevention and mitigation requirements, without which bycatch rates cannot be calculated or reduction measures cannot be monitored for effectiveness.
- No additional regional mitigation measure is currently needed as the effects of the measures already in place have not been evaluated.
- Any additional regional mitigation measures should be as much local as possible.
- More catch controls are needed both in commercial and recreational fisheries.

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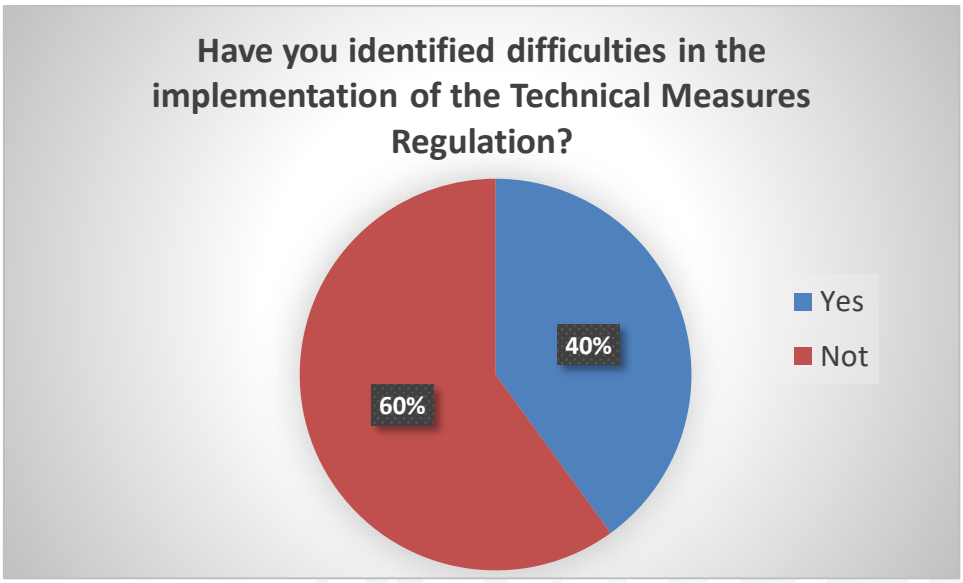
19. *Does the Advisory Council consider there is a need for additional steps to collect scientific data on incidental catches of sensitive species as set out in Annex XIII? If so, why and what steps?*



The following information on additional steps to collect scientific data on incidental catches of sensitive species, as set out in Annex XIII, have been reported by some MEDAC members:

- Improving scientific data could be done by adjustments of the selected areas in ANNEX XIII to the range of distribution of cetaceans, by adding restrictions and monitoring on vessels smaller than 12 m, by AIS and camera monitoring, by monitoring and developing bycatch mitigation measures especially to longline fisheries in general, but specifically in areas 8,9 and 10 both pelagic and demersal, namely deep sea. A common data collection protocol should be followed, an example is the methodology for data collection for Monitoring incidental catch of vulnerable species in the Mediterranean and the Black Sea (http://www.fao.org/gfcm/publications/series/technical-paper/640/en/).
- Where possible, animals should be kept for scientific sampling although the logistics problems related with lack of space on small scale vessels. Application of hook-timers and of satellite tagging programs to investigate the post-release mortalities should be supported to gather data that can inform the adaptation of fisheries strategies. There is an experimental project in France about on-board camera in order to improve knowledge on common dolphin bycatches.
- The professional fishers can be involved in the collection of scientific data in order to prevent these accidental catches (e.g. French pelagic trawls in the Bay of Biscay).
- Innovative monitoring methods, that are currently being tested, could be applied, specially to smaller vessels, when there's no possibility to place observers on board (e.g. REM, smart-phone apps, among others). There is also a need to increase effort collection data, especially in smaller vessels and understanding which gears are used in the multispecies polyvalent fleet.

20. *Has the Advisory Council identified difficulties in the implementation of the Technical Measures Regulation? If so, please indicate the relevant Article(s) and the difficulties encountered.*



Some of the MEDAC members indicated the following difficulties encountered:
- From a general point of view, the Technical Measures Regulation should gather all the technical measures that are in force. Because many other measures are included in other regulations (T&Q regulation, JR for the landing obligation, etc.) it is hard for fishermen to fully understand the rules they should comply with.
- From a more specific point of view, the articulation between article 9 of the Technical Measures Regulation that states that it shall be prohibited to use driftnets to catch shark, and the TAC and Quotas regulation that put a TAC for this species can be really confusing for fishermen.
- Finally, the definition of directed fisheries is a very important but complicated topic that will need further discussion. Until there is a clear definition, the regulation cannot be fully applied.
- The unwanted catch of prohibited species (such as some shark species) and their landing due to the limited knowledge of the fishers has caused many issues, including sanctions.
- The unwanted catches below the MCRS through gears compliant with regulations cannot be sold. This is an economic loss for fishers.
- The features of some gears, such as purse seiners (*Cianciolo*), and the minimum distances from the coast (beam trawls) caused operational issues to the fishing enterprises.
- Many difficulties have been faced because the regulation is overly complex. Simpler rules would be needed for a better understanding and implementation. By failing to take account of the sector's contribution, many of the measures are meaningless.
- At the regional and local level, it is not enough the implementation of the Regulation on technical measures referred to in Art.3 item 1.3 and Art. 4 item 1.a.