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CROATIAN FISHERY – HARMONIZATION OF REGULATIONS AND HOW TO ACCESS EU?

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Review paper

SUMMARY

Problems in Croatian fishery that impacts on low competitiveness were well known even before harmonization process start. EU accession process put even addition emphasis on the mentioned problem. In fact, increasing competitiveness from equal situation for market participants is one of the basic functions of the EU regulation harmonization in the accession process. It is highly integrated market environment and extremely demanding due to high level of European market norms. Legal basis of the process, and at the same time criteria for Croatian legalization assessment, have been determined during screening phase - chapter 13 - fishery.

Beside harmonization, changes are necessary in physical characteristics and spatial relationships, primary assuring area for fish discharge on the part of the front. It increases fishermen security, manipulation with a fish is easier, risk of contamination is low, control and compliances with the fish trade standards according to the EU standards and regulations are enabled.

The paper aims to analyze national documents and acquis in fish trade (Common Market Organisation; Common Fishery Policy) and determine needs for harmonization between Croatian and EU laws and introduction of the CMO measures. The paper indicates necessary activities in harmonization of regulations and proposed institutional and administrative changes.

Due to absence of regulation, changes in Croatian fishery sector will not be conducted properly and consequently it won't have equal chances on the EU market. Therefore this subject needs to be included in governmental priorities with the objective to assure legal basis for adequate infrastructure and suprastructure.

The results presented are a part of the research conducted during authors' work on the Fishery infrastructure in accordance with EU acquis feasibility study.

Key-words: *Legal regulations, Common Market Organisation; Common Fishery Policy, Croatian fishery*

INTRODUCTION

In the Republic of Croatia fishery has more than 1000 years of tradition. Furthermore, fishery has been, traditionally, one of the most important economic activities for the population of Croatia in coastal and island region. So far, Croatian institutions have not developed enough fishery facilities which caused the mismatching between current situation and EU demands. Instead of the comprehensive and balanced activities, development in the coastal region, partial sector development has been conducted. Significant complicated factor is lack of the data and indicators from the past as well.

The both, Government of the Republic of Croatia and all Croatian parliament parties, have expressed consensus of unconditional agreement of integration of the Republic of Croatia in European Union Membership. The Croatian accession to EU has been intensified in April 2004 by European Council Decision (2004)275 on partnership with relation Republic of Croatia in which principles, priorities and

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conditions for the EU integrations have been defined. Thereafter, Croatian Government has intensified its activities to accomplish all the conditions of EC Decision, which would ensure Croatian and EU *acquis communautaire* harmonisation.

The Common Fishery Politics (CFP) is used as a next legal framework for fishery. However, CFP is dynamic and requires the permanent changes. In spite of the problems that occasionally emerge with CFP enforcement, fishery development approach based on consideration of fishery resources as natural, movable, renewable and whose reproduction is beyond our control should be accepted. These resources are a part of our heritage; hence, their rational use with healthy environment consideration should be accomplished.

MATERIAL AND METHODS

The successful harmonisation, pre-accession conditions accomplishment and efficient fishery policy management cannot be expected without an adequate information support. Currently, lot of information sources and bases of EU *acquis* harmonization exist. The list of stipulation and regulation of agriculture and fishery has been used for the Croatian fishery information purpose (www.mps.hr/dokumenti/zakoni.asp).

The secondary sources of EU law for the EU legal framework of the Fishery segment insight (legal acts that are set by EU institutions and three EU bases: three communities (European Community, European Community for the carbon and steel and European Community for the Atomic Energy, Common foreign and security policy as well as cooperation on the law and home affairs policy) have been used.

The research is based on the inventorization and quality analysis of the Republic of Croatia and EU legislation and comparison of the legal services of the fishery laws and regulations harmonization.

Each researcher dealing with this research object presently finds that data he collects define the research methodology that should be applied. Basically, the simple method has been used for estimation of required Croatia and *acquis communautaire* harmonization, compliance with Stabilisation and Integration Agreement.

Firstly, the oversight of legal act of Croatia and European Union in the fishery segment has been made. Furthermore, collected data has been organized and systemized. Using descriptive analysis approach, the quality analysis of Croatian and EU legislation has been conducted. To do this task efficiently, the most relevant legal acts have been selected with aim to avoid preconception and prejudice.

RESULTS AND DISCUSSION

At the beginning of 1999 the Government of the Republic of Croatia decided to initiate a process of voluntary based estimation of harmonization of current legislation with EU *acquis communautaire* that will accelerate the next integration process as well as further development of contractual relationship. The analysis of level of harmonization has been made using 23 chapters of *acquis*. The undefined fields has been identified (the public support measure, consumer protection) as well as legislation harmonization level in other segments. The first estimation was based for further legislation harmonization.

The last phase related to the legislation comparison has been ended in the previous year for the chapter 13 - Fishery. The negotiation preparation team members started to manage action plans and negotiation direction definition before the official negotiation process at the fishery chapter has begun. Integration of the fishery in CFP framework requires a good current situation elaboration and defining the possibilities of this sector integration in detailed EU legislation and appliance of CFP (Common Fishery Policy) and CMO (Common Market Organization).

The national documents exclusively related to fishery respect (legal framework in Croatia)

The majority of limitation that unable establishment of effective agriculture and fishery has already been detected within the national document *The Strategy of Agriculture and Fishery of the Republic of Croatia* (55th session of the Government of the Republic of Croatia, July 17th 2003). The establishment of

organized fish trading is only one part of this program. It also consists of establishment and modernization of the fishing fleet, development of the fishing ports and docks network, sustainable aquaculture development as well as fishing staff education and cooperatives formation support.

The National program specifies setting of the unloading fish locations, collecting centres, redemption fish stations, wholesales markets and, as a final act, auction trading and wholesale commodities exchanges.

Strategic documents which define the sector of fishery and fish trading are as listed:

A Strategy of agriculture and fishery of the Republic of Croatia (Official Gazette of the Republic of Croatia, No 89/02)

1. *The national program of fish production and consumption in the Republic of Croatia – 55th session of the Government of the Republic of Croatia, June 17th 2003*
2. *The Law on Maritime Fishing (official Gazette No 74/94; 57/96; 46/97, 48/05)*
3. *Croatia's Ecological and Fisheries Protection Zone declared by Croatian parliament on October 3rd 2003*
4. *Law on Amendment of Law on Maritime Fishing (Official Gazette No 48, April 13th 2005)*
5. *Regulation on the commercial trade of the fish and marine organism (Official Gazette No 136, December 18th 2006)*
6. *Law on Fresh Water Fishing (Official Gazette 106/01, 174/04, 10/05)*
7. *Commercial Code (Official Gazette, 11/96, 101/98, 30/99, 75/99, 76/99, 62/01, 109/01, 49/03 103/03, 170/03.)*
8. *Law on Veterinary Medicine (Official Gazette 70/97, 105/01, 172/03)*
9. *Law on Maritime Domain and Seaports (Official gazette No 158/03)*
10. *Regulation on terms and modality of order maintaining in seaports and other internal maritime surface and territorial waters of Republic of Croatia (Official gazette 90/05)*
11. *Directive on seaports classifying for public transportation purpose and the special purposed seaports (Official gazette 110/04)*
12. *Decree (Official Gazette 37/96, 96/96, 102/96, 2/97, 5/97, 37/97, 118/97, 21/98, 36/01, 3/02, 36/03, 156/04, 159/04) by which seaports have been classified for the public transportation purpose. It defined seaports where, on the operative coastal parts, fishing fleet can do the manipulative activities (unloading, loading, services provision etc)*
13. *Food Law (Official gazette 37/96, 96/96, 102/96, 2/97, 5/97, 37/97, 118/97, 21/98, 36/01, 3/02, 36/03, 156/04, 159/04). It defines hygienic standards and health validity of maritime products. It is consisted of all production phases, food proceeding and distribution.*

Overview of EU legislation and the main principles related to CMO and CFP

The Common Fishery Policy in force has been initiated in 1992 (Council Regulation, EEC, No 3760/92 in December 20th 1992 establishing a Community system for fisheries and aquaculture). EU has passed a list of regulations that involves fishery consideration from 1992 till those days. However, the existing management system proved to be inefficient while fishery situation has many problems regardless EU existing instruments.

The first common measures on fishery sector emerge at 1970. Those measures have established regulations on seaports, market and support access. For the small ship survival purpose, coastal region was reserved for the local fishermen that traditionally existed on these locations. The common measure of fish and other maritime organism trading has been accepted. The structural policy was directed in order of ship and infrastructure modernization.

Those measures become even more significant in 1976 when the countries members, following international trends, decided to expand maritime rights from 12 to 200 nautical miles from the coast. In 1983, after negotiations' processes, the Common Fishery Policy (CFP) has been declared. Council Directive 83/515/EEC of October 4th 1983 was concerning certain measures to adjust capacity of the fisheries sector.

Today, CFP needs to provide usage of live aquatic natural resources that ensures sustainable economic, ecological and social conditions. For that purpose, EU gradually includes measures for the natural live resources protection, which ensure its sustainable exploitation and minimal influence on maritime fishery. It should lead to progressive appliance of ecologically based fishery management approach. The CFP aim is to support efficient fishery activities within economically accepted and competitive fishery and aquaculture as well as ensure satisfied live standard for all fishery activities participants considering the consumers' interest.

Common measures refer to main areas: a) Environment protection and fishing influence restriction to the environment (protection of environment by fishing control and regulation, provision of reproduction of young fish and pursuit of regulation and protection), b) structural back-up and fishery fleet guidance (assistance to fishing industry and aquaculture industry in equipment adjustment and resources and market organizations; The goal is to make the balance between fishermen's efforts and natural resources), c) Market (Maintains of common fish market organization and fishery products and compliance of manufactures and consumer's conditions) and d) Relations between countries out of EU (Establishment of partner's arrangement and negotiations on international level within regional and international fishing organizations for common protection of deep sea fishing).

Common fishing and aqua cultural product market organization has been defined by Council Regulation (EC) No 104/2000 of December 17th 1999 on the common organisation of the markets in fishery and aquaculture products Commission Regulation (EC) No 2318/2001 of November 29th 2001 laying down detailed rules for the application of Council Regulation (EC) No 104/2000 as regards the recognition of producer organisations in the fishery and aquaculture sector. Joint market organization of fishery products which includes price system and common rules of market competition has been established by this Council No 104/2000.

The major goals of CMO are: Appliance of CMO for sustainable fishing promotion; optimal usage of fishery products; including direct manufacturers in market leadership; better information about quality; integration promotion and market transparency by cooperation of all participants in the market; promotion assurance of fresh fishery products and quality augmentation; Regulations of security and genesis of product; joint market quality standards on the whole community level; voluntary fishermen's alliance-manufacturer's organizations which can help to market stabilization and their role in sudden market changes; defining of product's minimum price below which fish can be restraint of the market and commerce rules with third countries.

In October (October 9th 2002) a proposal and action plan for changes on Mediterranean area has been developed, on EU suggestion (2002/535/EC: Commission Decision of June 28th 2002 on the use of three slaughterhouses, in accordance with the provisions of point 7 of Annex II to Council Directive 92/119/EEC, by Italy (Text with EEA relevance). Co operational dimension (AdriaMed, MedSudMed, CopeMed), within which has been organized the researches is especially pointed out in this decision.

The right position of fishing activities in area has been significant for its sustainability. The article which includes management measures for sustain exploitation fishery resources in Mediterranean has been established on December 21st 2006 (Council Regulation (EC) No 1967/2006 of concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea, amending Regulation (EEC) No 2847/93 and repealing Regulation (EC) No 1626/94).

Especially important for Croatia is revision of EU council (Council Regulation (EC) No 1626/94 of 27 June 1994 laying down certain technical measures for the conservation of fishery resources in the Mediterranean) and decision of new technical measures in ship lapse regulation and new system of monitoring and statistics in Mediterranean (with special accent to illegally fishing prevention).

Harmonization of legislation of the Republic of Croatia accordance to EU and introducing CMO policy

The analysis of Croatian legislation coherence with EU legislation has shown:

- Discrepancies to EU aquis in a segment of fishery, related to marketing policy, controlling and custody
- Harmonization of official framework requires regional needed content definition
- Indeterminate position of fishery coastal infrastructure and, as a consequence, inability of needed content updating
- Undefined situation of area construction project resulting conflicts with other client

Within CMO contexts, a priority of harmonization should be directed toward two basic provisions:

- Provision on Producers Organization that should give some clear rules about establishing and operating. It should include basic elements as follows: an acceptance of Producer Organization, operative project consisted of producing plan, marketing strategy, procedures for plan confirmation, periodic reports and appliance of financial compensation.
- Provision on common market standards and consumer information, which would include some detailed rules. The provision inclusion should be gradual but aim to standard homogenisation for the whole EU level. Some commercial fish categories are targeted for intervention measure species list. They use different marking form, hence, dual marking can be proposed. There is no standard provision for the species that are not included on species list within CMO provisions, therefore, standardization is mainly related to the freshness categorization.

Prerequisites for CMO enforcement are: (1) PO organization since they are foundation of CMO system and policy; 2) functional agency system for payment and administration; 3) Accreditation of payment agency (1258/1999 and 1663/95)-procedures, accountancy, controlling system, revision, etc.; 4) information-processing system for data collection.

To make sure that fishery market could function congruently with EU standards it is necessary to have three strategic goals: 1) setting up the sea port infrastructure for fishery; 2) administration of fish market and 3) setting up manufacturers' organization.

Setting up the sea port infrastructure for fishery-Place to unload and location for fishing boats, it is possible to improve already existing ports and to build new ports with special allocation that are reserved only for fishery. It is required to introduce obligation for concessionaire to make sure that there are enough space within ports for fishing boats.

Administration of fish market – By already existing subjects on the fish market it is necessary to organize big public market place which should offer better choice possibility, and therefore, ensure better and bigger competition, and, on the other hand, to reduce the number of middle men on the market. The foundation of public market place should be realized with Government support. The support should be assigned to fishery association and to local administrations also, which should ensure the role of public market place.

Setting up manufacturers' organization - Because of fishery manufacturers alliance into the manufacturer's organizations, which are necessary assumption for equal manufacturers position on the market and possibility of easier investment through the offer concentration and product's quality. It is necessary to establish some legal acts to define range and way of supporting manufacturers.

CONCLUSION

Interpreting of EU rules and also relevant Croatian rules is one of the key elements for successful integration one country in EU, and it is also prerequisite for the membership. Interpreting of legal established right (franc.: *acquis communautaire*) is necessary for adjustment legislative in timely manner and for clear understanding of EU integration obligations.

The prudence of agriculture policy begins with epistemology that there are no ideal solutions. (Brandow, 1969). There are always some causes for criticism and persuasive for better solutions. Fishery is economically and socially to compound system, so it is quite difficult to resolve all discontinuity and discrepancies with EU legislative in a few determinants. Actually, all the changes in fishing laws and regulations will be the result of compromise between different interests groups and, to smaller extent, experts' analysis and concepts.

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