

ECJ confirms electric fishing ban, says science cannot justify all

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Pulse trawling vessel docks in a Dutch harbour. The practice will be illegal from mid-2021. [SHUTTERSTOCK]

Europe's highest court has dismissed the latest Dutch attempt to halt the ban on the controversial practice of pulse trawling, in a ruling that put boundaries to the science-oriented approach of EU lawmaking.

In a judgement published on Thursday (15 April), the Luxembourg-based European Court of Justice (ECJ) rejected all the arguments the Netherlands had put forward to demonstrate that the EU ban on electric fishing had not relied on the best scientific opinions available.

The ECJ pointed out that the EU lawmakers are not obliged to base their "legislative choice as to technical measures on the available scientific and technical opinions only," adding that there is a wide legislative discretion too in the field of fisheries.

Although scientific and technical progress is promoted among the main EU objectives, it does not mean that the legislature is obliged to transpose every new technique into a legislative act solely on the ground that it is innovative, the ruling reads.

For the Court, the EU lawmakers have sufficiently explained the reasons for departing from scientific opinions when adopting the provisions in question.

The judges also recalled that none of the technical studies available says that this method has no negative impacts on the environment.

The practice of pulse trawling consists of sending electric signals to stun and startle fish away from the seabed before scooping them up in nets.

Although officially banned at the EU level in 1998, a system of derogations set up in 2006 has allowed the practice to continue on a vast scale in the North Sea by Dutch fishing vessels.

According to the Dutch national cooperative fisheries organisation VisNed, more than 80 family-owned businesses rely on pulse fishing in the Netherlands.

An EU-wide ban on electric fishing was finally included in the overhauled technical conservation measures for fisheries approved by the European Parliament and the EU Council in 2019 after tough negotiations spanned three rotating EU Council presidencies – Bulgarian, Austrian, and Romanian.

Opponents of pulse trawling stressed that the technique has negative effects on juveniles and eggs and damages marine wildlife.

Supporters say it is safer for the environment than beam trawls as it reduces carbon emissions by lowering fuel consumption.

Dutch pulse fishing vessels have been experimenting with pulse fishing since 2011 on a larger scale and research carried out by Wageningen Economic Research highlighted the socio-economic costs of a complete ban on pulse fishing for Dutch fisheries, saying it will result in a sharp reduction in the economic yield per vessel, impacting the entire sector.

The ideological split over electric fishing is also motivated by economic and commercial interests and has pitted member states led by France and the UK against the Netherlands.

The practice has remained possible under certain strict conditions during the transition period of the new rules on fishing activities and catching methods allowed within EU waters, which will come to an end in June.

The ECJ ruling has, therefore, confirmed that the use of electric currents in waters to catch fish will be illegal from mid-2021.

"This is a huge relief," commented Frédéric Le Manach, scientific director of the French group Bloom, who led the coalition of NGOs and fishing associations campaigning against pulse trawling during negotiations.

He also called for legal action against the Netherlands and the reimbursement of subsidies they have received, as compensation for the fishers who have suffered from electric fishing in the past 10 years.