

FACTUAL SUMMARY REPORT ON THE PUBLIC CONSULTATION FOR THE EVALUATION OF THE EEL REGULATION (No 1100/2007)¹

The Commission launched the Public Consultation (PC)² on 14 December 2018. With the obligatory 12-week consultation period the PC ended on 8 March 2019. The consultation aimed to gather feedback from two types of potential respondents:

- professionals familiar with the Eel Regulation, and
- EU citizens not familiar with the legislation but interested in eel stock recovery.

The PC questionnaire was prepared with an assistance of an external consultant. It was divided into two sections: an experts' survey and a general survey. The experts' survey included 12 closed and 11 open questions. The questions were more specific and complex, and they referred to all the six evaluation criteria. The general survey was more generic and briefer. It included three closed and one open question. The questionnaire was accessible in all EU languages (except Irish) from the Commission's dedicated website³.

In total, 160 respondents took part in the public consultation, 152 responded to experts' survey and 8 to general survey. Beyond this, 4 *ad-hoc* written responses were also received from the Sustainable Eel Group (SEG), the Baltic Sea Advisory Council (BSAC) as well as the French and Netherlands governments. Below the respondents' profile and a summary of their responses is presented.

Respondents' profile

Sixteen MS (57%) and two non-EU countries (Norway and Albania) were represented in the contributions. More than 40% of respondents came from FR (66 contributions), followed by ES (20), NL (14), DE (10), UK (8), PT (7), BE and SE (6 each).

Out of 160 respondents, 45 gave their contributions as "EU citizens" without institutional affiliation (28.1%) and 115 respondents in a professional capacity (71.9%) as representatives of: a company or business organisation (26), NGOs (19), academic or research institutions (18), environmental organisation (18), public authority (12), business association (8), trade union (3), and "other" (11).

Respondents' self-description in relation to the Eel Regulation was as follows:

- *I work for an environmental body with an interest in the implementation of the Eel Regulation* (18.1%);
- *I have a general interest in matters concerning fisheries in the European Union* (17.5%);
- *I work for a public administration responsible for developing, implementing and/or monitoring the Eel Regulation* (16.9%);
- *I am a fisher or farmer involved the production and/or sale of eels* (10%);

¹ Disclaimer: This document should be regarded solely as a summary of the contributions made by stakeholders in the public consultation on the evaluation of the Eel Regulation. It cannot in any circumstances be regarded as the official position of the Commission or its services.

² https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-1986447/public-consultation_en

³ https://ec.europa.eu/info/consultations_en

- *I work for a research body with an interest in the Eel Regulation* (8.8%);
- *I represent an international organisation with an interest in the implementation of the Eel Regulation* (6.9%);
- *Other* (21.9%), for instance hydropower producers, fisheries advisors, organisations representing fishermen and other NGOs.

Fields of activity of respondents' organisations were: environment (42.5%), fishery (31.3%), aquaculture (4.4%), other (21.9%), for instance hydropower, shipping, agriculture and law enforcement. Their organisations varied in terms of size: large with over 250 employees (20%), medium (10.6%), small (16.3%) and micro (25%)⁴.

Public consultation results

Experts' survey

Below section presents the results of the PC experts' survey (152 contributions).

Relevance

Overall, respondents assessed the relevance of the Eel Regulation positively. The majority of them considered all the objectives listed as still relevant. More than nine in ten respondents agreed that there remains a need to ensure that anthropogenic mortalities are reduced, for a European recovery plan for the European eel, and for Member States to implement Eel Management Plans. 86.8% agreed that there remains a need to ensure that control and enforcement activities take place in EU waters at all stages of the eel supply chain. 85.5% agreed that there remains a need to ensure the origin and traceability of all live eels imported to and exported from MS. 82.2% agreed that there remains a need to ensure fishing effort and catches are regulated. 75.67% of respondents agreed that it remains appropriate to regulate the supply of glass eels for restocking operations and 67.8% agreed that there remains a need to ensure the escapement to the sea of at least 40% of the adult eel biomass.

The lowest number of respondents, but still the majority, agreed that it remains appropriate to seek to reduce catching of eels to at least 50% of 2006 levels (57.9% agreed and 28.3% disagreed).

While the target to ensure 40% eel escapement to the sea was perceived as "relevant", less than half of respondents (45.4%) indicated that it was indeed "achievable". When analysed by sector, business sector respondents tended to indicate more frequently that they disagreed with the statement that this target was achievable (44.1%), while representatives of NGOs and academic communities tended to agree (66.7% and 58.8%, respectively). Respondents were able to provide additional comments on the possibility to achieve this target⁵. Out of those who provided additional comments (127), 34.8% highlighted a number of issues with the 40% target itself, namely: the target is not measurable, not ambitious enough, not based on scientific evidence, set for pristine rivers rather than real-life situations, not comparable between Member States or, in fact, too ambitious. Others referred to external reasons why the target is unachievable: unresolved problem with barriers to eel migration and hydropower-turbines mortality (14.8%), the policy at the national level being insufficiently implemented (6.7%).

⁴ Not all respondents specified the size of organisation, $n=115$.

⁵ Q3: Please provide a reason for your answer as to why you think the 40% escapement goal is achievable or not (optional), $n=127$.

Apart from assessing the relevance of the current objectives of the regulation, respondents were asked if the regulation needed amendments or simplification (Q6). The majority indicated that it did (64.5%), compared to only one in ten who disagreed and about one third without a specified opinion.

Respondents were also asked to provide suggestions on amendments or simplification in an open-ended question⁶. From those who provided answers, many (39.7%) did not specify concrete steps and 9.9% suggested it was the implementation that needed to be improved rather than the regulation itself. Other suggestions included:

- introducing stricter rules on fishing and trade (including a total ban on fishing) and reinforcing the regulation (20.7%),
- modifying the escapement objective (clarification or setting more realistic target) (9.1%),
- introducing more harmonized standards or indicators to assess effects across countries (7.4%).

The vast majority of respondents (76.3%) indicated that alternative targets (Q4) were needed to ensure that the regulation delivers on its objective of securing the recovery of the European eel. One in ten respondents disagreed.

In an open-ended question, respondents provided additional comments and proposals for alternative targets and indicators⁷. Out of those who provided comments, 22.3% highlighted the need to further limit eel fishing, in particular glass eel fishing and recreational fishing, and 9.7% mentioned a total ban on eel fishing. 16.5% proposed targets related to reduction of migration barriers (hydropower, dams; turbines' closures during migration periods) and 11.7% proposed focusing on recovery of estuaries, rivers and habitats and reducing pollution (including PCBs and endocrine disruptors). Other proposed targets were related to: better understanding of the problem (scientific research and monitoring) (5.9% of respondents) and introducing interim targets and deadlines for implementation (5.3% of respondents).

Effectiveness

Respondents assessed the achievements of the regulation less positively than its relevance. They were asked to make judgement on the effectiveness of the current measures for the recovery of European eel stock against the same set of objectives of the regulation. Opinions were mixed.

The achievement of some objectives was assessed more positively than others, for example, the implementation of EMP was the only objective that the majority of respondents (57.2%) agreed that it was achieved.

A relative majority of respondents also indicated that the regulation managed to increase the adult eels' escapement to the sea towards the 40% target (3.3 percentage points difference between positive and negative answers) and to ensure a reduction in anthropogenic eel mortalities (0.7 percentage points difference between positive and negative answers).

⁶ Q7: Please provide a reason for your answer, and, if appropriate, identify which aspects of the Eel Regulation you think need to be amended or simplified (optional), n=121.

⁷ Q5: Which indicators or targets do you think would be more suitable? (optional), n=103.

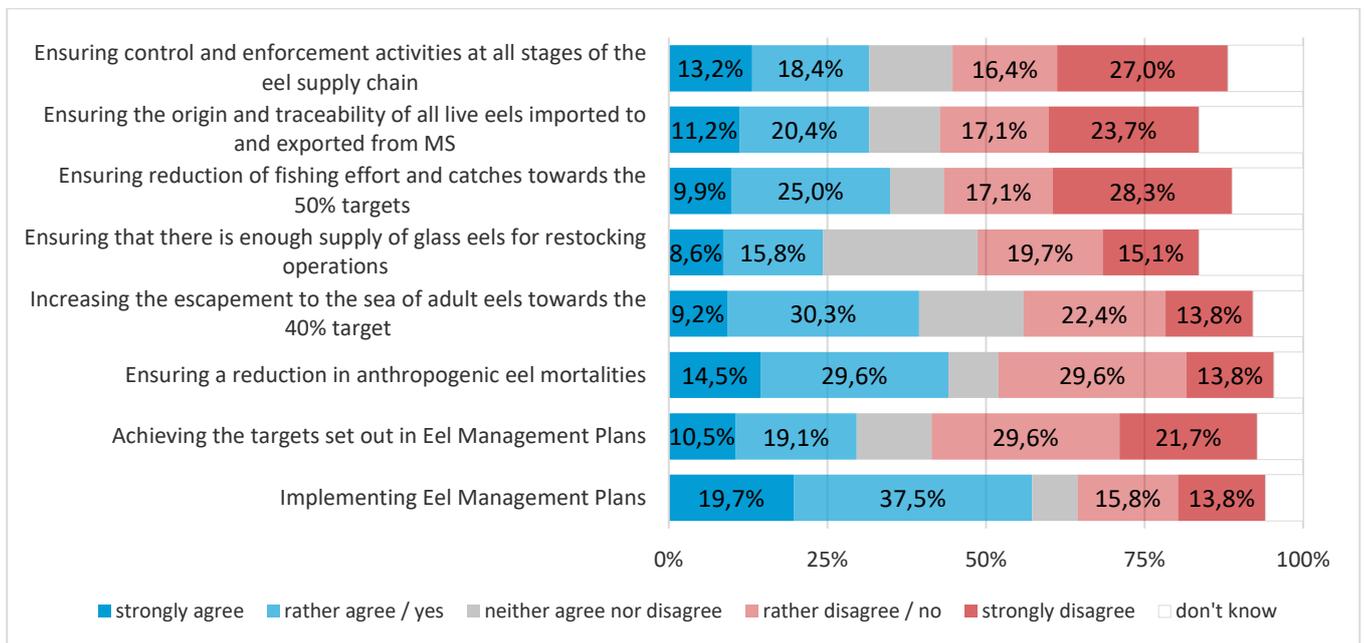
As regards other objectives, more respondents indicated that they were not achieved, and in most responses the difference in responses was between 9 and 12 percentage points:

- ensuring the origin and traceability of all live eels imported to and exported from MS,
- ensuring reduction of fishing effort and catches towards the 50% targets,
- ensuring that there is enough supply of glass eels for restocking,
- ensuring control and enforcement activities at all stages of the eel supply chain.

The majority of respondents (51.3%) indicated that targets set out in EMP remain not achieved (see **Figure 1**).

Figure 1: What has the Eel Regulation achieved?

Q8: *To what extent have the current measures for the recovery of European eel stock under the Eel Regulation achieved the following objectives?*



n=152

Most respondents were also able to share their views on successes of the Eel Regulation⁸ and barriers hindering its effectiveness in open text comments⁹ (147 and 139, respectively). In terms of successes of the regulation, 7.5% of respondents who provided comments referred to increased stock or reduced mortality, 25.2% referred to more indirect effects which can lead to reducing mortality in the long term (reducing fishing effort, removing barriers to migration, improved control, restocking programmes, implementation of EMPs), and 29.9% referred to raised awareness of the problem, increased efforts and cooperation of different actors and MS. 10.2% mentioned other achievements and 12.9% indicated no or limited achievements or negative consequences.

As regards barriers hindering effectiveness, respondents mentioned as follows:

- external barriers (39.1%), such as:

⁸ Q10: *What do you consider to have been the successes of the Eel Regulation and its implementation to date?*

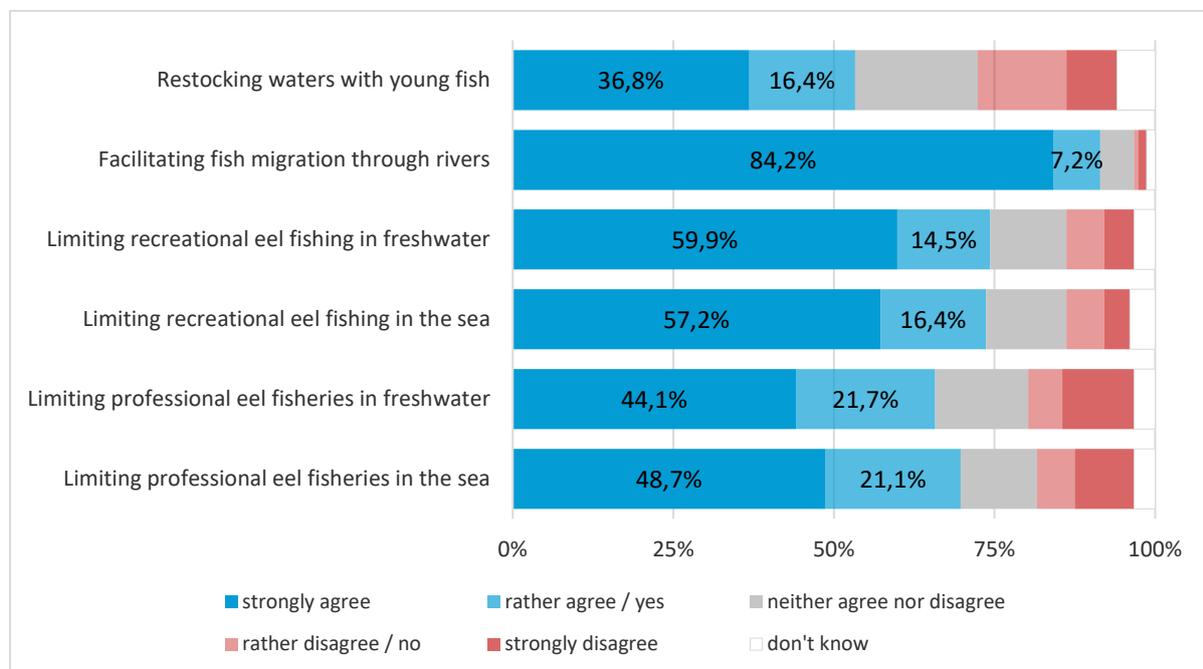
⁹ Q9: *Reflecting your answers above, what do you consider to be the barriers to achieving the objectives of the Eel Regulation?, n=151.*

- inability to reduce hydropower mortality (13.9%),
- black market and poaching (12.6%),
- issues with the regulation itself (18.5%),
- problems with its implementation (17.2%), especially bad quality or insufficient implementation of EMPs.

Most of respondents indicated that they supported all the measures of the Eel Regulation. The measure most frequently supported (9 out of 10 respondents) was facilitating fish migration through rivers. Almost three quarters of respondents supported limiting recreational eel fishing in freshwater (74.3%) and the sea (73.7%). The majority also supported limiting professional fisheries: in the sea (69.7%,) and freshwater (65.8%). Restocking waters with young fish was the least supported measure, but still supported by a majority of respondents (53.3%). The details are presented in **Figure 2**.

Figure 2: What is the support for Eel Regulation measures?

Q11: *Do you support the following measures to recover the population of eel in Europe?*



n=152

In a separate question (Q12), respondents were asked if they were in favour of implementation of total or partial bans on eel fishing to aid recovery of the European eel stock. This measure was also supported by a majority of respondents (61.2%) and opposed by one third of them (33.6%).

Respondents from the business sector were most likely to disagree that they supported the implementation of total or partial bans on eel fishing (58.8%, *n=40*). Conversely, 83.3% of respondents representing environmental organisations supported it.

Respondents also provided additional comments related to bans on eel fishing(Q12a) and 34.3% (*n=140*) justified supporting a total ban mainly because of the critical condition of the eel population and need for urgent action, and 5% mentioned fishing being of the main reasons of stock decline.

Out of those who indicated that they did not support a ban (28.6%), 15.7% highlighted that other factors are responsible for the decline of the stock (such as hydropower, pollution), 5.7% mentioned that a ban would lead to increased poaching, and another 5.7% referred to negative social and economic consequences of a total ban.

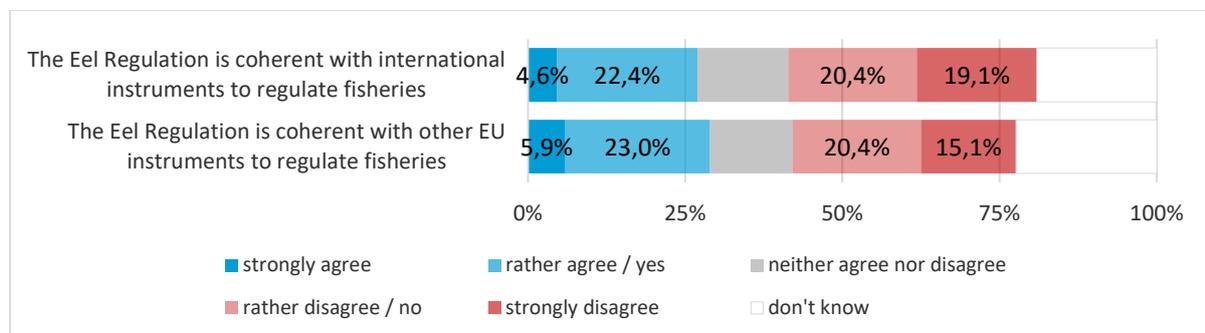
Respondents were also asked about other actions at EU or MS levels that could be undertaken to recover the eel population in Europe (Q13). 43.8% (n=144) highlighted the need for ecological actions (restoring migration routes, rivers, shelters, reducing pollution etc.), 16.0% mentioned improving monitoring activities, traceability, scientific research and evaluation of current activities, 13.9% referred to enhancing control of legal and illegal fishing, and 9.7% mentioned further limitation of fishing, including a total ban.

Coherence

The coherence of the Eel Regulation was assessed rather negatively. 39.5% of respondents indicated they disagreed that the regulation is coherent with international fisheries instruments (“external coherence”) and 35.6% selected the same answer for coherence with other EU instruments (“internal coherence”). The proportion of respondents who disagreed that the regulation was externally coherent exceeded those who agreed by 12.5 percentage points. In terms of internal coherence negative assessment exceeded positive by 6.6 percentage points. The details are presented in **Figure 3**. The proportion of respondents who indicated that they “didn’t know” was substantial and exceeded one third of all respondents in both cases.

Figure 3: How coherent is the Eel Regulation with other fisheries instruments?

Q3: *To what extent do you agree or disagree with the following statements?*



n=152

Respondents also provided additional comments on coherence but in most responses those comments did not clearly specify the issues with coherence (Q14a). 19.1% of those who provided comments (n=131) referred to inconsistencies within Common Fisheries Policy (MSY principle, Water Framework Directive not applicable to eels, Habitat Directive) and 9.9% referred to other issues (e.g. ban of export leading to illegal trade, protecting predators etc.).

EU added-value

Respondents indicated that the Eel Regulation provided added value to what could be achieved by MS at national or regional levels. More than three quarters of respondents (n=152) valued the EU intervention, compare to 7.9% who did not.

In an open-ended question, respondents were also asked what the consequences of withdrawing the intervention would be (Q16). Most of them (59.9%, n=147) referred to negative consequences, mainly the eel population being more endangered and a risk that Member States would no longer implement protective measures. 12.9% mentioned positive consequences, such as fishing no longer being limited.

Efficiency

Opinions on the efficiency of the Eel Regulation were rather ambiguous. 40.8% of respondents (n=152) disagreed that the same or better results in terms of eel stock recovery could have been achieved at lower cost, whereas 18.5% agreed with the statement. On the other hand, 36.2% disagreed that the costs of administering and implementing the regulation are proportionate to the environmental and socio-economic benefits achieved, with 18.4% agreeing with this statement. One quarter of respondents indicated that administering and implementing the regulation has been carried out at the lowest possible cost, however, a majority of respondents "neither agreed nor disagreed" and "did not know" whether they agreed or disagreed with this statement (34.9% and 24.3%, respectively).

Opinions whether the regulation could be simplified but still achieve the same result were mixed. Almost equal proportions of respondents (35.5%) agreed and disagreed (34.2%) and did not specify their opinion ("neither agreed nor disagreed" and "didn't know" answers) (30.3%).

Most of the respondents were not able to assess the efficiency of the regulation in comparison with other policy instruments or mechanisms (Q18). 54.6% of 152 responded that they "didn't know". Among the remaining respondents, a larger proportion disagreed (29,6%) that other instruments provided better cost-effectiveness.

Respondents had the opportunity to provide examples of more cost-effective policy instruments and mechanisms in an open-ended question (Q19), but only 15% of all respondents (n=23) provided comments and tended to propose alternative actions such as: recovery of migration routes and habitats, reducing fishing, improved international cooperation, and controlled opening of exports to Asia.

Sustainability

Responses to questions on the sustainability of the effects of the regulation were varied (Q20). A slightly larger proportion of respondents (n=152) indicated that they disagreed that the effects of the intervention were likely to last after it ended (37.5% compared to 30.9% who agreed, a difference of 6.6 percentage points). A substantial proportion of respondents (one third) indicated that they "did not know" whether the effects were likely to last.

General survey

The second section of the OPC was addressed to non-specialised respondents¹⁰. Out of eight respondents who participated in the survey, one indicated that they had never heard about the problem of the decreasing European eel population compared to seven respondents who had (Q21). All eight respondents indicated that they "rather agreed" that they supported action by the EU to regulate eel fishing to ensure the recovery of the species (Q22).

¹⁰ This section displayed to those who selected the answer: *I am not familiar with the Eel Regulation.*

With regards to specific measures to recover the population of eel in Europe (Q23), all respondents supported facilitating fish migration through rivers; seven out of eight respondents supported limiting professional eel fisheries in the sea and in freshwater, and limiting recreational eel fishing in freshwater, whereas six respondents supported restocking waters with young fish. Five out of eight respondents supported limiting recreational eel fishing in the sea.

Summary of ad-hoc written contributions submitted

Four written contributions have been submitted in response to the Public Consultation from the Sustainable Eel Group (SEG), the Baltic Sea Advisory Council (BSAC) as well as the French and Netherlands governments. They are summarised as follows:

- 1) The SEG considers that the Regulation as such is effective (increasing awareness, management plans, protective action, comprehensive approach) and that the implementation needs to be strengthened. It suggests keeping the Eel Regulation in place, possibly with minor modifications. The key to the successful protection of the European eel across Europe are: strengthening the international coordination and evaluation, refocusing protective actions on a geographically partitioned basis (EMUs), implementing full traceability of eels and eel-products, extending the protection of the eel beyond the borders of the EU, prioritising the eel and increasing its protection in policies such as the Water Framework Directive, Natura 2000, and others, to address the non-fishing impacts.
- 2) The BSAC sent as its contribution to the Public Consultation the BSAC joint position papers on eels prepared in the framework of consultations held in 2017 and 2018 (including on the possible ways forward to improve the situation of European eel and the measures to promote the recovery of eel). Given the electronic format of the on-line consultation process, BSAC members were encouraged to respond individually.
- 3) The French government indicated that: i) achieving the goal of a 40% escape rate is only possible in the long term, given the life cycle of the species and the state of the stock; ii) the need to adopt intermediate targets in national management plans; iii) the need to focus efforts the proper implementation of the EMPs (with emphasis on non-fisheries anthropogenic mortality factors).
- 4) The Dutch government noted that: i) the decline in eel mortality has not yet led to an increase in the biomass, ii) the recovery of eel stocks is slow; iii) further management is needed to improve eel status and make fisheries more sustainable. It made several suggestions to strengthen the Eel Regulation, while ensuring a level playing field within the EU and with third countries.