



Study on the legislative frameworks and enforcement systems of Member States regarding obligations and sanctions to nationals for infringements to the rules arising from the IUU Regulation

Final Report

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EU Overall Report

Final Report

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EXECUTIVE SUMMARY

The objective of this project is to provide sufficient data to gain a complete understanding of the Member States' implementation and enforcement of the existing obligations regarding nationals set out in Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing (the **IUU Regulation**)¹. In order to ensure that the Member States fulfil their obligations under Articles 39 and 40 of the IUU Regulation, it is necessary to obtain a comprehensive and up-to-date picture of the level of implementation of these requirements in each national legal system.

Therefore, this study aims to:

- **gather data** on the legal frameworks to implement Articles 39 and 40 in all Member States in order to gain a comprehensive overview of whether and how the legal instruments in place (and those planned to be adopted) in the national systems reflect the requirements set by the IUU Regulation regarding nationals²;
- **provide a comparative analysis** of the Member States legal frameworks, identifying patterns and pointing to specific difficulties in implementing or interpreting the obligations provided in Articles 39 and 40; and
- **identify any best practices** that can be shared between the Member States.

The study mainly focuses on: on the one hand, EU nationals engaging in illegal, unreported, unregulated (IUU) fishing outside EU waters, i.e. operating³ or on board fishing vessels⁴ registered in third countries or vessels without nationality, on the high seas and/or in the waters under the jurisdiction of third countries, and: on the other hand, on EU nationals supporting IUU fishing (as defined in the glossary) wherever they are located.

Methodology applied

The project was implemented in two main steps:

1. data collection on the national fisheries and fisheries-related legislation that incorporates Articles 39 and 40 of the IUU Regulation (Task 1) and
2. assessment of the national frameworks and measures adopted at national level against nationals engaged in/supporting IUU fishing (Task 2).

Task 1 consisted of the preparation of an updated overview of the national legal frameworks pursuant to the requirements of Articles 39 and 40 of the IUU Regulation. The information collected was factual (legal provisions, official documents and figures) and aimed to provide an overview of the implementation into the national framework of the requirements of the IUU Regulation relating to nationals. The main source of information for this overview was the **questionnaire** addressed to the competent authorities of the Member States. The questions were designed to ensure an as exhaustive as possible coverage of the information to be collected, other sources of information available to the national experts being only used to cross-check and complete the information provided by the authorities.

¹ Council Regulation (EC) No 1005/2008, OJ L 268, 29.10.2008, p.1.

² Austria (AT), Belgium (BE), Bulgaria (BG), Czechia (CZ), Croatia (HR), Cyprus (CY), Denmark (DK), Estonia (EE), Finland (FI), France (FR), Germany (DE), Greece (EL), Hungary (HU), Italy (IT), Ireland (IE), Latvia (LV), Lithuania (LT), Luxembourg (LU), Malta (MT), the Netherlands (NL), Poland (PL), Portugal (PT), Romania (RO), Slovakia (SK), Slovenia (SI), Spain (ES) and Sweden (SE).

³ According to the Council Regulation (EC) No 1224/2009, OJ L 343, 22.12.2009, p. 1, Art. 4(19) 'operator' means the natural or legal person who operates or holds any undertaking carrying out any of the activities related to any stage of production, processing, marketing, distribution and retail chains of fisheries and aquaculture products

⁴ Pursuant to Article 2 (5) of IUU Regulation, fishing vessel means any vessel of any size used or intended for use for the purposes of commercial exploitation of fishery resources, including support ships, fish processing vessels, vessels engaged in transhipment and carrier vessels equipped for the transportation of fishery products, except container vessels.

Upon receipt, **replies** were **analysed** by the national experts working on the project. The national experts were asked to fill any gaps and cross-check the information provided in the replies with other sources based on desk research. To that end, a list of potential sources of information was provided in the Interview Summary template (see below). They were also communicated information provided by the Member States to the Commission.

The data gathering and analysis phase was concluded with interviews with the national authorities performed by the national experts. The questions aimed at filling the remaining gaps and at receiving clarifications on specific points. It was also the opportunity to follow up on inconsistencies that may have been observed between the replies to the questionnaire and the results of the desk research. The interview questions also covered the identification of best practices and opportunities for improvement of the national system.

Task 2 consisted in an overall assessment of the system of each Member State with regard to Articles 39 and 40 of the IUU Regulation. In this regard, the performance of each of the national framework and measures described in Task 1 was **assessed against a set of criteria**. The results of the analysis completed under Task 2 includes a comparative assessment between Member States and identifies best practices, shortcomings and opportunities for improvement.

Results of the comparative analysis of the legal frameworks across the EU

General legislative and policy framework

Even though the obligations contained in Articles 39 and 40 of the IUU Regulation are directly applicable to all Member States under Article 288 of the Treaty on the Functioning of the EU (TFEU)⁵, they nevertheless need to be incorporated into and further specified in the national legal order to be implemented.

Thus, national procedures should be in place to ensure that the competent authorities are in a position to implement the provisions and appropriate sanctions need to be established to ensure the enforcement of the requirements. If these elements are not provided in national law, they are unlikely to be implemented in practice. In this context, the national legal and policy frameworks in place in the EU Member States should provide for a comprehensive coverage in terms of legal obligations applying to nationals within the meaning of Articles 39 and 40 of the IUU Regulation⁶.

Legal acts relevant in the context of Articles 39 and 40 of the IUU Regulation are in place in nearly all Member States. However, in a number of Member States, the applicable legislation, or recent revisions of such legislation, does not directly or expressly implement Articles 39 and 40, but rather provides the general legal framework for the enforcement of the Common Fisheries Policy which enables, at least to some extent, their application. More specifically, in the national legislation of many Member States, EU nationals operating or on board fishing vessels registered in third countries or without nationality are not covered and no enforcement measures are instigated against them.

Non-binding documents (soft law) which are relevant for the implementation of the obligations applying to nationals as provided in Articles 39 and 40 are introduced in less than half of the Member States. Similar to legal acts, these are not specifically intended to facilitate the implementation of Articles 39 and 40 as such, but instead have a more or less significant impact on their application. As to the changes in the legislation in the past five years, in eleven (11) of the Member States, there were changes relevant, at least to some extent, to the legal acts relevant to obligations applying to nationals as provided in Articles 39 and 40. Changes mainly relate to the sanctioning system or the role of enforcement authorities.

⁵ Treaty on the Functioning of the European Union OJ C 202, 7.6.2016, p. 171–172, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12016E288>.

⁶ Within the context of this study, unless indicated otherwise, all references to ‘nationals’ refer to the natural and legal persons subject to the jurisdiction of Member States pursuant to Article 39 (1) of IUU Regulation.

National measures implementing Articles 39 and 40

Obligations for nationals

Regarding **Article 39(1)**, which provides that “nationals subject to the jurisdiction of Member States (nationals) shall neither support nor engage in IUU fishing, including by engagement on board or as operators or beneficial owners of fishing vessels included in the Community IUU vessel list”, two third of the Member States (18)⁷ reflect the infringement directly into their national order. For several of them, such as Croatia, Italy, Poland and Spain, this is implied by setting up sanctions to punish.

In relation to **Article 40(2)** stating that nationals “shall not sell or export any fishing vessel to operators involved in the operation, management or ownership of fishing vessels included in the Community IUU vessel list”, only one third of the Member States (9)⁸ reflect the prohibition into national law. Authorities of landlocked countries such as the Czech Republic and Hungary indicated that nationals of their Member States do not own fishing vessels. This argument was raised by Slovak authorities for both Article 39 and 40, indicating that Slovakia is a landlocked country without approved fishing vessels, owners or operators of vessels and determined ports. The remaining Member States have either included a provision with a direct reference to the Regulation in their national law or argue direct applicability of the Regulation, without specific reference into national law.

Obligations for Member States regarding nationals

As for obligations applying to nationals, the IUU Regulation’s requirements applying to Member States are reflected to various extent in national law. Approaches vary across landlocked Member States, with Austria and Hungary incorporating few provisions in their national legal order and the Czech Republic and Slovakia none⁹.

Article 39(2) on cooperation and adoption of measures to identify nationals supporting or engaged in IUU fishing is reflected in national law in seven (7) Member States¹⁰.

Article 39(3) requiring Member States to take appropriate action with regard to nationals identified as supporting or engaged in IUU fishing is reflected in the national law of more than half of the Member States (14)¹¹.

Article 40(1) which puts on Member States the responsibility to encourage nationals to notify any information on the fact that they hold interests in, or control of, fishing vessels flagged to a third country and the names of the vessels concerned is reflected in the national law of only six (6) Member States¹².

Article 40(3) prohibiting Member States to grant public aid to operators involved in the operation, management or ownership of fishing vessels included in the Community IUU vessel list is mentioned in the national law of thirteen (13) Member States¹³. This provision was considered not applicable by the national authorities of landlocked Member States¹⁴.

Article 40(4) obliges Member States to endeavour to obtain information on the existence of any arrangement between nationals and a third country allowing the reflagging of fishing vessels flying their flag to such third country; and to inform the Commission thereof by submitting a list of the fishing vessels concerned. This requirement is reflected, at least partially, in six (6) Member States¹⁵. It is not reflected in any of the landlocked countries, because, up to the time of writing, they do not have fishing vessels flying their flags.

⁷ AT, BE, BG, CZ, DE, EE, ES, FI, HR, HU, IE, IT, LT, NL, PL, PT, SE and SI.

⁸ BE, DE, EE, ES, FI, HR, IT, NL and SI.

⁹ No data was gathered for LU.

¹⁰ AT, DE, EE, ES, IT, MT and PL.

¹¹ AT, BE, DE, EE, ES, FI, HU, IT, LT, LV, MT, NL, PL and PT.

¹² AT, CY, EE, ES, LV and PL.

¹³ BE, CY, DE, DK, EE, ES, IT, LV, NL, PL, PT, SE and SI.

¹⁴ CZ, HU, SK,

¹⁵ CY, EE, ES, IT, LT and SI.

Jurisdiction to sanction nationals

All the Member States provided information on the extent to which their enforcement authorities have jurisdiction to sanction any national (masters and/or crew members, as well as operators, including owners, of vessels) **engaged** in IUU fishing activities which occurred by means of or on board vessels registered in them and those to third countries, including when operating on the high seas or in third countries' waters. Information on whether and which exceptions apply (e.g. specific circumstances under which nationals engaged in IUU fishing can/cannot be prosecuted or sanctioned by the enforcement authorities) are also included.

Similarly, Member States provided information as to the rules on jurisdiction to sanction nationals **supporting** IUU fishing activities wherever they are located, in each of the following situations:

- Masters and/or crew members, who are nationals of the Member States, operating on vessels registered in third countries with known links to IUU fishing activities (21 Member States providing relevant rules)¹⁶;
- Owners and/or operators of vessels registered in third countries with known links to IUU fishing activities, who are nationals of the Member States (22 Member States providing relevant rules)¹⁷;
- Owners of processing plants in third countries supporting/providing services to IUU listed vessel, who are nationals of the Member States (18 Member States providing relevant rules)¹⁸;
- Nationals of the Member States, based in the EU, managing third country registers and supporting IUU fishing activities (18 Member States providing relevant rules)¹⁹;
- National insurance and financial service providers to IUU listed vessels (16 Member States providing relevant rules)²⁰;
- HR companies (recruiting companies) based in the Member States providing services that support IUU fishing activities (16 Member States providing relevant rules)²¹;
- Third country supply vessels owned/controlled by nationals of the Member States supporting/providing services to IUU listed vessel (20 Member States providing relevant rules)²²;
- Other situations involving nationals of the Member States supporting IUU fishing activities which occurred on board vessels registered in third countries, including when operating on the high seas or in third countries' waters.

Existence of sanctions

Sanctions are in place for nationals engaged in or supporting IUU fishing activities in all Member States but Slovakia. However, these sanctions apply only within the limits of jurisdiction presented in the previous sections. In general, sanctions are administrative in most Member States. Criminal sanctions are also provided in Bulgaria, the Czech Republic, Estonia, France, Germany, Italy, Latvia, Malta, Romania or exclusively in Cyprus, Hungary, Ireland, the Netherlands and Sweden. Where administrative sanctions are in place, they mainly consist of fines, with complementary sanctions such as seizure or forfeiture of products or withdrawal/suspension of fishing licence. Criminal sanctions consist in most cases of imprisonment and/or a fine.

Sanctions for nationals selling or exporting fishing vessels to operators involved in IUU fishing are scarcer. Where sanctions are provided, they are general sanctions not expressly mentioning the said infraction. Such sanctions are not provided in half of the Member States (13)²³.

¹⁶ AT, BE, BG, CY, DE, DK, EE, ES, FI, FR, HR, IE, IT, LV, MT, NL, PL, PT, RO, SE, SI.

¹⁷ AT, BE, BG, CY, DE, DK, EE, ES, FI, FR, HR, IE, IT, LT, LV, MT, NL, PL, PT, RO, SE, SI.

¹⁸ AT, BG, CY, DE, DK, EE, ES, FI, HR, IE, IT, LT, LV, MT, NL, RO, SE, SI.

¹⁹ AT, BE, BG, CY, DE, DK, EE, ES, FI, HR, IE, IT, LV, MT, NL, RO, SE, SI.

²⁰ AT, BG, CY, DE, DK, EE, ES, FI, HR, IE, IT, MT, NL, RO, SE, SI.

²¹ AT, BG, CY, DE, DK, EE, ES, FI, HR, IE, IT, MT, NL, RO, SE, SI.

²² AT, BG, CY, DE, DK, EE, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, RO, SE, SI.

²³ BE, BG, EE, EL, HU, IE, IT, LT, PL, PT, RO, SE and SK.

Obstacles mentioned by enforcement authorities

Obstacles in the application of sanctions on nationals engaged in IUU fishing, operating or on board vessels registered in third countries and/or vessels without nationality as well as on nationals supporting IUU fishing were identified in nine (9) Member States. Recurring issues include the difficulty to identify IUU fishing activities which do not occur within EU waters and the administrative burden such identification entails, as well as the lack of cooperation with third countries authorities. Problems of internal coordination among authorities in a same Member State were also mentioned (e.g. Lithuania and Romania).

Additional and/or alternative initiatives

National authorities consulted in the context of the present study were asked to indicate whether their Member States had adopted any policy initiatives, guidance documents or procedures in addition to legal measures for the identification of nationals engaging in IUU fishing outside EU waters or supporting IUU fishing either from the territory or areas under the jurisdiction of the Member State or abroad. Such activities relate in great part to awareness raising information for the relevant stakeholders, but also to the issuance of guidelines and procedures to facilitate the gathering and/or exchange of information, and training.

Cooperation with third countries

The cooperation between the EU Member States is described in Article 51 of the IUU Regulation, as well as in Articles 35 and 52 of the Commission Regulation (EC) No 1010/2009. In particular, pursuant to Article 51 of the IUU Regulation, the national administrative authorities responsible for implementation of the Regulation shall cooperate with each other, with administrative authorities of third countries and with the Commission in order to ensure compliance with the Regulation.

Additionally, the need for cooperation among the authorities responsible for the implementation of the Regulation, the competent authorities of third countries, the Commission and the body designated by it in order to ensure compliance with the respective rules is required under Article 117 of the Council Regulation (EC) No 1224/2009. For this purpose, a system of mutual assistance shall be established, which shall include rules on the exchange of information upon prior request or on a spontaneous basis. The Member State where fishing activities have taken place shall transmit to the Commission, at its request, by electronic means, any relevant information at the same time as it is communicated to the flag Member State of the fishing vessel.

For the purpose of mutual assistance, the Member States shall designate a single liaison office (SLO) and communicate its identity to the Commission and the other Member States, pursuant to Article 39 of Commission Regulation (EC) No 1010/2009. The Commission shall publish and update the list of single liaison offices in the Official Journal of the European Union.

In addition, the EU has entered into international agreements with third countries which provide for cooperation with third countries from which Member States directly benefit²⁴. For instance, the EU is party to the Agreement on Port State Measures (PSMA) which is the first binding international agreement to specifically target IUU fishing²⁵. In particular, pursuant to Article 9 of the PSMA, each party of the Agreement shall decide whether to authorize or deny the entry of the vessel into its port and shall communicate this decision to the vessel or to its representative (in case of denial, the decision shall be communicated to the flag State).

Initiatives were mentioned in seven (7) Member States²⁶. They referred to international as well as bilateral agreements, which provide a platform for cooperation. They also mentioned occasional informal collaboration. The role of the European Commission as intermediary was pointed out as well in a few

²⁴ See https://ec.europa.eu/oceans-and-fisheries/fisheries/international-agreements_en.

²⁵ See <https://www.fao.org/port-state-measures/background/parties-psma/en/>.

²⁶ EL, ES, FR, HR, LT, LV and PL.

cases.

Notification to the Commission

Article 39(4) of the IUU Regulation provides that ‘each Member State shall notify to the Commission the names of the competent authorities responsible for coordinating the collection and verification of information on activities of nationals referred to in this Chapter and for reporting to and cooperating with the Commission’.

Among the replying Member States, twenty (20) Member States²⁷ declared that they notified the Commission of the names of the competent authorities responsible for coordinating the collection and verification of information on activities of nationals in accordance with Article 39(4) IUU Regulation. Six (6) Member States declared not having notified the information²⁸.

Existence of procedures for key requirements

Article 40 (1) of the IUU Regulation provides that ‘Member States shall **encourage nationals** to notify any information pertaining to legal, beneficial or financial interests in, or control of, fishing vessels flagged to a third country which they hold and the names of the vessels concerned’. There are relevant measures in place (either in law or in practice) in less than half (11) of the Member States²⁹.

Pursuant to Article 40(3) of the IUU Regulation, Member States shall not grant any **public aid**, either under national aid regimes or under EU funds, to operators who are involved in the operation, management or ownership of fishing vessels included in the Community IUU vessel list. Even though directly applicable, in order to ensure implementation, an actual procedure to check conditions before granting public aid is necessary. Such procedure shall apply both for EU funds (European Maritime, and Fisheries Fund (EMFF), European Maritime, Fisheries and Aquaculture Fund (EMFAF) and for national funding schemes.

With regard to funding under the EMFF, in accordance with Article 10(5) of Regulation (EU) No 508/2014, applicants had to sign a declaration stating that they 1) had not committed a serious violation under Article 42 of the IUU Regulation or Article 90 (1) of Regulation (EC) No 1224/2009; and 2) **had not participated in the activity, management or ownership of fishing vessels included in the list of the Union of vessels engaged in IUU fishing, according to Art. 40 (3) of the IUU Regulation** or on ships flying the flag of countries designated as non-cooperating third countries in accordance with Article 33 of the same regulation. Under the new EMFAF 2021-2027, a similar obligation will apply³⁰. A number of national authorities referred to that declaration in the context of, or as their sole, procedure to implement Article 40(3). Beyond an actual check by designated authorities, a more elaborate procedure is provided in eight (8) Member States³¹.

Results of the overall assessment of the national enforcement systems

Appropriateness of the general legislative and policy framework

The national legal and policy frameworks in place in the EU Member States provide for a **comprehensive coverage** in the legislation of obligations applying to nationals.

²⁷ BE, BG, CY, DK, EE, EL, ES, HR, HU, IE, IT, LV, MT, NL, PL, PT, RO, SE, SI and SK.

²⁸ AT, CZ, DE, FR, FI and LT (not known for LU).

²⁹ AT, BG, CY, EE, ES, HR, LT, LV, MT, PL and PT. In IT, the information was not available to the authorities surveyed, as it is within the competence of another Ministry (Economic affairs).

³⁰ At this point in time, Commission delegated regulation of 5 November 2021 supplementing Regulation (EU) 2021/1139 of the European Parliament and of the Council on the European Maritime, Fisheries and Aquaculture Fund as regards the periods of time and the dates for the inadmissibility of applications for support (C(2021)7701) was objected by the European Parliament on 15 February 2022. See https://www.europarl.europa.eu/doceo/document/TA-9-2022-0026_EN.html.

³¹ ES, FI, IT, MT, NL, PL, SE and SI.

In nearly all Member States, there are legal acts in the context of Articles 39 and 40 of the IUU Regulation. However, in a number of Member States, the applicable legislation, or the changes brought to such legislation, do **not directly or expressly implement Articles 39 and 40**, but rather provide the general legal framework to implement the requirements of the Common Fisheries Policy (CFP) which enables, at least to some extent, their application.

Soft law measures, such as circulars and guidelines, have been inventoried in eleven (11) Member States. Similar to legal acts, these are **not specifically intended to facilitate the implementation of Articles 39 and 40** as such, but instead have a more or less significant impact on their application.

Appropriateness of the national measures reflecting Articles 39 and 40

The different obligations set in Articles 39 and 40 of the IUU Regulation are reflected in national law to a variable extent across Member States. Several of the Member States consider that the direct applicability of the Regulation does not justify adopting separate legislation at national level.

It may nevertheless be considered that the adoption of specific rules regarding the requirements of Articles 39 and 40 **is necessary for the proper implementation of these requirements** in the Member States. This is especially the case for obligations applying to nationals, which require setting up the relevant procedures for control and enforcement, the designation of competent authorities, and first and foremost the adoption of corresponding sanctions.

While the adoption of measures tailored to the implementation of Articles 39 and 40 would tend to indicate a certain level of commitment of the Member States towards the implementation of these obligations, in those Member States where measures have been adopted at national level, the requirements were nonetheless in some cases only **partially reflected**. At the same time, according to the national authorities consulted, several of the Member States which have not incorporated the provisions into national laws nevertheless apply them in practice³².

Appropriateness of the sanctioning systems

A comprehensive enforcement framework should encompass rules on **jurisdiction** to enable control and sanctioning, actual **sanctions** provided by law to sanction nationals engaged or supporting IUU fishing activities, **enforcement authorities** with clearly defined mandate to implement such rules and sanctions, as well as established **procedures** to guide implementation.

In order for the Member States to take appropriate action against nationals engaged in IUU fishing outside EU waters operating or on board of vessels without nationality or registered in third countries or supporting IUU fishing, it is necessary to clarify **rules on jurisdiction** in place to ensure that enforcement authorities have the power to exercise their authority over any national, regardless of whether they are on the national territory or on board a vessel flying the national flag or the flag of any other country. All but eight (8) Member States³³ have a system ensuring jurisdiction over **any of their nationals engaged** in IUU fishing on stateless or third country vessels operating outside CEU waters. For four (4) further Member States³⁴, jurisdiction does not extend to all types of support of IUU fishing (as defined in the glossary).

Whereas the prohibitions set in the IUU Regulation may be considered directly applicable, it is critical to have corresponding **sanctions** in national law to ensure their enforcement. Sanctions can be applied to nationals engaged or supporting IUU fishing in all Member States but one (1)³⁵. Sanctions are also in place for nationals selling or exporting fishing vessels to operators involved in IUU fishing in thirteen

³² E.g. DK, FR, FI.

³³ AT, CY, CZ, FR, LT, PL, SI and SK.

³⁴ DK, EL, HU and LV.

³⁵ SK.

(13) Member States³⁶. However, the application of these sanctions is **restricted by the rules on jurisdiction** in some Member States as explained in the previous point; in other words, they cannot be enforced against EU nationals operating and/or on board vessels that are stateless or registered in third countries. Moreover, they are usually **not tailored** specifically to offences committed by nationals operating and/or on board vessels registered in third countries.

To apply sanctions defined by law, it is necessary to have clearly designated enforcement authorities, with sufficient powers and resources. Obstacles were reported by the consulted national authorities regarding the **powers and capacity of enforcement authorities** in nine (9) Member States³⁷. This does not however imply that enforcement authorities of other Member States do not experience similar or other issues to control and sanction nationals engaged or supporting IUU fishing. In fact, some of the obstacles reported, such as **difficulties in identifying nationals** outside the national territory and waters, are likely to be encountered in all Member States.

Precisely to address the issue of **identification of nationals**, national systems should encompass clear **measures** firstly regarding **cooperation with third countries** to identify national offenders, in accordance with Article 39(2) of the Regulation, and secondly regulating the **notification by nationals of their interests** with fishing vessels flagged to a third country pursuant to Article 40(1). On the first point, only seven (7) Member States provide such procedure³⁸; and even within those, the measures adopted differ in terms of impact, depending on whether they are formal or informal. On the second point, eleven (11) Member States³⁹ provide for the relevant measures. Here as well, the importance of the measures varies depending on their nature (positive, negative, legal or a combination of these possibilities).

In terms of necessary **procedures**, mechanisms should at least be in place to apply Article 40(3) requesting Member States to ensure that **public aid under national aid regimes or under EU funds is not granted** to operators involved in the operation, management or ownership of fishing vessels included in the EU IUU vessel list. Such procedures have been adopted in a sufficiently comprehensive manner in eleven (11) Member States⁴⁰. In the remaining Member States, procedures only cover EU funds, and in most cases are restricted to applying the requirements of the EMFF Regulation, which do not encompass all situations foreseen under Article 40(3).

Other actions to contribute to the implementation of Articles 39 and 40 were mentioned in seven (7) Member States⁴¹. Such additional initiatives contribute to a better implementation of the obligations imposed on nationals. As for other instruments adopted for implementation, the impact of such actions varies depending on their nature and their targeted addressees. They include awareness raising activities and the development of guidelines, which are not directly intended to implement this specific question. They may also include more tailored tools such as targeted research activities or the use of lease agreements with owners to impose the relevant rules⁴².

Data on sanctioning of nationals engaged/supporting IUU fishing

In answer to the data call issued to the national authorities within the context of this study, data was provided by **sixteen (16) Member States** that indicated that **data on the sanctioning of EU nationals engaged in IUU fishing activities outside EU waters operating or on board fishing vessels registered in third countries and vessels without nationality as well as supporting IUU fishing is recorded**.

³⁶ AT, CY, CZ, DE, DE, ES, FI, FR, HR, LV, MT, NL and SI.

³⁷ CY, EE, EL, ES, IT, LT, MT, NL and RO.

³⁸ EL, ES, FR, HR, LT, LV and PL.

³⁹ AT, BG, CY, EE, ES, HR, LT, LV, MT, PL and PT.

⁴⁰ CY, DE, DK, ES, FI, IT, MT, NL, PL, SE and SI.

⁴¹ CY, EE, HR, IT, LT, LV and RO.

⁴² Respectively in CY and LV.

The scarce data available shows that **very few cases of nationals identified as supporting/engaging in IUU fishing as described above were recorded and were sanctioned over the period 2017-2021**. The highest number of **cases detected and sanctioned** (37) is in Spain. Though this may be due to a higher level of illegal activities due to the importance of the sector in Spain, it may also correlate with the comprehensive regulatory framework in place in that Member State.

Only two notifications by nationals (Article 40(1)) and two notifications to the Commission (Article 40(4)) were reported. These were issued only in and by Malta and in 2021. With only one Member State reporting four cases, it is **not clear whether the data on notifications is fully reliable**.

Cooperation with other countries

In answer to the data call, cases regarding nationals engaging in IUU fishing operating or on board vessels without nationality or vessels registered in third countries as well as nationals supporting IUU fishing subject to **mutual assistance** were notified in five Member States⁴³ between 2017-2021, with Germany having used mutual assistance the most, in 72 cases overall. When asked for examples of such mutual assistance correspondence, national authorities of six Member States⁴⁴ reported cases related to nationals. The authorities consulted indicated between one and two cases of mutual assistance, except for Germany (10 cases). With inconsistencies in the Member States having used mutual assistance and inconsistent numbers in the two questions for certain Member States, it is not possible to accurately assess the use of the mutual assistance mechanism, though it seems to be relatively limited.

Cases where the Member States **exchanged information with other parties** were reported by eight (8) Member States⁴⁵. Cases vary from one to three cases in Belgium, Estonia, Hungary, Italy and Spain to nearly 1000 cases in Croatia. Exchange is reported primarily with third countries, but also with other Member States and EFCA. The inconsistencies observed (e.g. data given by Croatia and Slovenia on their mutual exchanges are very different). It can therefore not be considered reliable for the purpose of the analysis.

Best practices and opportunities for improvement

The existence of best practices and identification of areas for improvement shed additional light on the **strengths and weaknesses** identified in certain Member States and completes the assessment of the national enforcement systems.

In addition to the positive aspects of implementation reflected in the data provided on sanctioning and other aspects mentioned above, **best practices** have been observed in nine Member States⁴⁶ in relation to the enforcement of Articles 39 and 40 of the IUU Regulation for EU nationals engaging in IUU fishing on board or operating vessels without nationality and vessels registered in third countries as well as nationals supporting IUU fishing. These practices refer mainly to exchange of information with EFCA (Belgium, Croatia, Italy, Lithuania), the development of guidelines (Denmark, Italy), existing training (Italy), sanctioning regimes (Hungary). Another recurring point raised is well-functioning cooperation (Hungary, Lithuania), and in relation to this, the asset that informal communication may represent in enforcement (Estonia, Slovenia). In Slovenia, the outsourcing of enforcement was also mentioned as a success.

Opportunities for improvement were mentioned in nine (9) Member States⁴⁷. These refer in several instances to the inadequacy of the legislative framework (Bulgaria, Lithuania, Malta and Romania). The legislation is currently undergoing revisions in Malta and Romania. In addition, a range of practical implementation issues were also identified such as an inadequate control system (Belgium), the lack of

⁴³ AT, BE, DE, EL and PT.

⁴⁴ BE, DE, EE, MT, PT and SE.

⁴⁵ AT, BE, HR, EE, HU, IE, IT and ES.

⁴⁶ BE, DK, EE, HR, HU, IT, LT, RO and SI.

⁴⁷ BE, BG, FI, HR, HU, LT, LV, MT and RO.

training of the enforcement authorities (Croatia), or else deficient enforcement procedures (Finland, Hungary, Lithuania, Malta).

ABBREVIATIONS USED

Art.	Article
CA	Competent Authority
CFP	Common Fisheries Policy
CIR	Commission Implementing Regulation No. 404/2011
CR	Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy (the Control Regulation)
EEZ	Exclusive Economic Zone
EFCA	European Fisheries Control Agency
EMFF	European Maritime and Fisheries Fund
EMFAF	European Maritime, Fisheries and Aquaculture Fund
FTE	Full time equivalent
HR	Human resources
MS	Member State(s)
MSCA	Member States Competent Authority
IUU Reg.	Illegal, Unreported and Unregulated Fishing Regulation No 1005/2008
IUU Regulation	

1 INTRODUCTION

1.1 PROJECT OBJECTIVE AND SCOPE

The Common Fisheries Policy Regulation (the CFP Regulation)⁴⁸ aims to ensure that fishing and aquaculture activities contribute to long-term sustainable environmental conditions⁴⁹, requiring that the maximum sustainable yield exploitation rate is achieved by 2015 where possible and, on a progressive, incremental basis at the latest by 2020 for all stocks (Article 2 of the CFP Regulation). Fisheries management as designed in the CFP functions through controls on access to waters, fishing effort, technical measures, total allowable catches and quotas⁵⁰.

One of the issues that is seriously affecting the stats of fish stocks by destroying marine habitats, distorting competition, and putting honest fishers at an unfair disadvantage is illegal, unreported and unregulated (IUU) fishing⁵¹. It is a serious threat for fishes and their marine habitats as well as for multiple stakeholders involved in fishing, including small-scale fishers and vulnerable coastal communities.⁵² As one of the world's biggest markets for fishery products, the EU has the responsibility to ensure that fishery products stemming from IUU fishing activities do not reach its market⁵³ and to fight against these fishing activities.

Since its entry into force on 1 January 2010, the EU has been fighting IUU fishing activities through the Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing (the **IUU Regulation**)⁵⁴. It is to be implemented together with Council Regulation (EC) No 1224/2009 (the Control Regulation)⁵⁵ which consolidates and simplifies all control related obligations concerning the CFP, while developing “a new approach to inspection and control, both at EU and Member States level, creating level-playing field across the EU for the sanction of serious infringements of CFP rules and strengthening cooperation and assistance among Member States and the European Commission”.

‘Illegal, unreported and unregulated fishing’ or ‘IUU fishing’ refers to “*fishing activities which are illegal, unreported or unregulated*” as defined in the Regulation and quoted below⁵⁶.

Box 1 IUU fishing definition under the IUU Regulation

Definition of IUU fishing provided in the IUU Regulation (Article 2(1))

⁴⁸ Regulation (EU) No 1380/2013 of the European Parliament and of the Council on the Common Fisheries Policy, OJ L 354 28.12.2013 p.22.

⁴⁹ Article 1 of the CFP Regulation

⁵⁰ Website EC, available at: https://ec.europa.eu/fisheries/cfp/fishing_rules_en

⁵¹ Website EC, available at: https://ec.europa.eu/fisheries/cfp/illegal_fishing_en

⁵² Website EC, available at: https://ec.europa.eu/fisheries/cfp/illegal_fishing_en

⁵³ COM (2020) 772 Final Report from the Commission to the European Parliament and the Council on the application of Council Regulation (EC) No 1005/2008 establishing a community system to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing (the IUU Regulation), available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020DC0772&rid=7>

⁵⁴ Council Regulation (EC) No 1005/2008, OJ L 268, 29.10.2008, p.1.

⁵⁵ Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p. 1).

⁵⁶ Article 2 (1) of the IUU Regulation.

■ **‘Illegal fishing’** means fishing activities:

- (a) conducted by national or foreign fishing vessels in maritime waters under the jurisdiction of a State, without the permission of that State, or in contravention of its laws and regulations;
- (b) conducted by fishing vessels flying the flag of States that are contracting parties to a relevant regional fisheries management organisation, but which operate in contravention of the conservation and management measures adopted by that organisation and by which those States are bound, or of relevant provisions of the applicable international law; or
- (c) conducted by fishing vessels in violation of national laws or international obligations, including those undertaken by cooperating States to a relevant regional fisheries management organisation.

■ **‘Unreported fishing’** means fishing activities:

- (a) which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; or
- (b) which have been undertaken in the area of competence of a relevant regional fisheries management organisation and have not been reported, or have been misreported, in contravention of the reporting procedures of that organisation.

■ **‘Unregulated fishing’** means fishing activities:

- (a) conducted in the area of application of a relevant regional fisheries management organisation by fishing vessels without nationality, by fishing vessels flying the flag of a State not party to that organisation or by any other fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organisation; or
- (b) conducted in areas or for fish stocks in relation to which there are no applicable conservation or management measures by fishing vessels in a manner that is not consistent with State responsibilities for the conservation of living marine resources under international law.

The IUU Regulation establishes an **EU system to prevent, deter and eliminate** IUU fishing activities both in EU and international waters. As provided in Article 1(3) of the IUU Regulation, it applies to all IUU fishing and associated activities carried out within the territory of Member States to which the Treaty applies, within EU waters, within maritime waters under the jurisdiction or sovereignty of third countries and on the high seas. As a result, it applies to Union fishing vessels, third-country fishing vessels when present in Union waters and to EU nationals on board third-country fishing vessels and vessels without nationality, without prejudice to the primary responsibility of the flag state. The IUU Regulation has three main components:

1. **The catch certification scheme:** under the IUU Regulation, only marine fisheries products that have been validated by the competent flag State can be imported to or exported from the EU.
2. **The carding process:** the IUU Regulation covers the relationship of the EU with third countries, namely establishing bilateral IUU dialogues and the carding process.
3. **Penalties for EU nationals:** the IUU Regulation provides for rules for the identification and sanction of EU nationals who engage in or support IUU fishing activities both within and outside the EU.

The present study focuses on this last point.

Obligations for Member States regarding nationals

In general, situations regarding nationals involved in IUU fishing activities are described in the CFP and are sanctioned under the Control Regulation. However, explicit obligations for Member States regarding nationals **stemming exclusively from the IUU Regulation** are provided in Articles 39 and 40 of the IUU Regulation. These provisions include obligations for (i) Member States and (ii) nationals involved

in IUU fishing activities. Article 39 deals with the identification of nationals supporting or engaged in IUU fishing while Article 40 provides for the prevention and sanctions of IUU fishing activities in providing an enforcement system to nationals engaged and supporting IUU fishing activities. The two provisions are quoted in the box below.

Box 2 Articles 39 and 40 of the IUU Regulation⁵⁷

Article 39 Nationals supporting or engaged in IUU fishing

1. **Nationals** subject to the jurisdiction of Member States (nationals) shall neither support nor engage in IUU fishing, including by engagement on board or as operators or beneficial owners of fishing vessels included in the Community IUU vessel list.
2. Without prejudice to the primary responsibility of the flag State, **Member States** shall cooperate amongst themselves and with third countries and take all appropriate measures, in accordance with national and Community law, in order to identify nationals supporting or engaged in IUU fishing.
3. Without prejudice to the primary responsibility of the flag State, **Member States** shall take appropriate action, subject to and in accordance with their applicable laws and regulations with regard to nationals identified as supporting or engaged in IUU fishing.
4. Each **Member State** shall notify to the Commission the names of the competent authorities responsible for coordinating the collection and verification of information on activities of nationals referred to in this Chapter and for reporting to and cooperating with the Commission.

Article 40 Prevention and sanction

1. **Member States** shall encourage nationals to notify any information pertaining to legal, beneficial or financial interests in, or control of, fishing vessels flagged to a third country which they hold, and the names of the vessels concerned.
2. **Nationals** shall not sell or export any fishing vessel to operators involved in the operation, management or ownership of fishing vessels included in the Community IUU vessel list.
3. Without prejudice to other provisions laid down in Community law pertaining to public funds, **Member States** shall not grant any public aid under national aid regimes or under Community funds to operators involved in the operation, management or ownership of fishing vessels included in the Community IUU vessel list.
4. **Member States** shall endeavour to obtain information on the existence of any arrangement between nationals and a third country allowing the reflagging of fishing vessels flying their flag to such third country. They shall inform the Commission thereof by submitting a list of the fishing vessels concerned.

In spite of numerous studies and reports issued on the topic of enforcement under the CFP, there is currently no sufficient data available to gain a complete understanding of the legal and practical state of play in the Member States regarding the implementation and enforcement of the existing obligations regarding nationals in the context of the IUU Regulation when they operate on board vessels without nationality or vessels registered in third countries. In order to ensure that the Member States fulfil their obligations under Article 39 and 40 of the Regulation, it is therefore necessary to obtain a comprehensive and up-to-date picture of the level of implementation of these requirements in each national legal system.

To that end, this study aims to:

- **gather data** on the legal frameworks to implement Articles 39 and 40 in all Member States in order to gain a comprehensive overview of whether and how the legal instruments in place (and planned) in the national systems reflect the requirements set by the IUU Regulation regarding nationals;

⁵⁷ Emphases added.

- **provide a comparative analysis** of the Member States legal frameworks, identifying patterns and pointing to specific difficulties in implementing or interpreting the obligations provided in Articles 39 and 40; pointing to specific difficulties in implementing or interpreting the obligations provided in Articles 39 and 40;
- **identify any best practices** that can be shared between the Member States.

The present Final Report constitutes the third deliverable under Contract No MARE/2021/09 for a ‘Study on the legislative frameworks and enforcement systems of Member States regarding obligations and sanctions to nationals for infringements to the rules arising from the IUU Regulation’. It provides the results of Tasks 1 and 2, for which data was gathered on the national measures to implement Articles 39 and 40 of the IUU Regulation.

The Report includes:

1. A summary of the methodology and of the challenges experienced to date;
2. A presentation of the information provided for the Member States under study⁵⁸;
3. An assessment of the existing frameworks in the Member States to implement Articles 39 and 40;
4. And in Annexes:
 - a. A glossary;
 - b. The answer to the questionnaire and the interview summary for each Member State where available;
 - c. A bibliography.

1.2 PROJECT METHODOLOGY, OUTCOME AND CHALLENGES

This section includes:

- A summary of the methodology used to gather and to analyse the information presented, including sources of information
- A summary of the level and quality of responses to the questionnaires and interviews
- Challenges experienced and limitations in the evidence gathered.

1.2.1 Methodology and action plan

1.2.1.1 Overview of project tasks and inter-linkages

The main tasks foreseen in the Terms of Reference and their interlinkages are illustrated in Figure 1 below. In addition to the Tasks described in the Terms of Reference, a Task ‘0’ consisting of the Inception phase was added.

The Inception phase (Task 0) was completed with the approval of the Inception Report. The results of the data collection obtained to date on the national measures regarding the implementation and enforcement of the existing obligations regarding nationals in the context of the IUU Regulation were presented in the Progress Report. Once completed, the data collection was followed by the assessment of the national framework and the measures adopted at national level against nationals engaged in/supporting IUU fishing (Task 2).

⁵⁸ The present version does not include information for Luxembourg, due to the absence of reply from this Member State to the questionnaire, as explained in Section 1.2.2.

Figure 1 Overview of project tasks and inter-linkages

The sub-sections below provide a more detailed description of the methodological steps we have followed for each task.

1.2.1.2 Detailed description of tasks

Task 0 Inception phase

The inception phase consisted of three main steps:

- Step 1: the kick-off meeting;
- Step 2: the preparation of the methodological tools and of the Inception Report;
- Step 3: the inception meeting.

The **kick-off meeting** was held on 5 January 2022. It was the opportunity to clarify the objectives of the contract and to discuss the approach to the service request and the methodology foreseen. DG MARE also provided initial sources of information as well as indications as to the availability of additional information. The consultation with the authorities of Member States was also a key point for discussion. Finally, the workplan was agreed upon.

The **Inception Report** was drafted by the Project Management Team following the contractual timeframe. It was submitted on 17 January 2022, and included the tools necessary to implement the project:

- The questionnaire and data call for the development of Task 1;
- The outline of the Final Report.

The **Inception meeting** took place after the submission of the draft Inception Report, on 24 January 2022. The main purpose of the meeting was to discuss the tools proposed in this Inception Report. Following receipt of the Commission's comments, the Project Management Team revised and adjusted the Inception Report and data collection tools. The Report was approved on 25 January 2022.

Task 1 Data collection on the fishing and fisheries-related legislation that incorporate Articles 39 and 40 of the IUU Regulation

This Task was implemented in four steps:

- Step 1: Design of the data collection tools (questionnaire + first data call);
- Step 2: Dissemination and completion by national authorities;
- Step 3: Analysis of replies and follow-up interviews;
- Step 4: Report drafting.

The **design of data collection tools** encompassed the design of the questionnaire and of the data call.

Task 1 consisted in the preparation of an updated overview of the national legal frameworks pursuant to the requirements of Articles 39 and 40 of the IUU Regulation. The information collected was factual (legal provisions, official documents and figures) and aimed to provide an overview of the implementation into the national framework of the requirements of the IUU Regulation relating to nationals. The

main source of information for this overview was the **questionnaire** addressed to the competent authorities of the Member States.

The draft questionnaire was presented in the proposal and the revised version, following comments from the Commission, in the Inception Report. The questions were designed so as to ensure an as exhaustive as possible coverage of the information to be collected, other sources of information available to the national experts being only used to cross-check and complete the information provided by the authorities.

The final questionnaire included an introduction, with an explanation on the background of the study, a privacy statement, a glossary, and questions about the profile of the respondent. It was then divided in four sections. Section 1 aimed at providing an overview of the applicable legal framework in the Member State; Section 2 asked for information on the national implementing measures for Articles 39 and 40 of the IUU Regulation; Section 3 referred to the implementation of the national requirements, and Section 4 corresponded to the data call within the meaning of the terms of reference.

It was **disseminated** to the national authorities via email which included a link to the questionnaire online on 25 January 2022.

The recipients were invited to coordinate with other competent enforcement authorities as needed to reply to the questionnaire. A functional email address was also put in place to enable the Project Management Team to provide guidance and support to the Member States' authorities for the completion of the questionnaires.

In accordance with the Terms of Reference, they were also given the possibility to ask for the translation of the questionnaire in their national language. This possibility was used by Germany.

The respondents were given an initial four weeks to reply. Several extensions were subsequently granted. Eventually, replies were received from 26 Member States.⁵⁹

Upon receipt, **replies** were **analysed** by the national experts working on the project. The national experts were asked to fill any gaps and cross-check the information provided in the replies with other sources based on desk research. To that end, a list of potential sources of information was provided in the Interview Summary template (see below). They were also communicated information provided by the Member States to the Commission.

The data gathering and analysis phase was concluded with interviews with the national authorities performed by the national experts. The questions aimed at filling the remaining gaps and at receiving clarifications on specific points. It was also the opportunity to follow up on inconsistencies that may have been observed between the replies to the questionnaire and the results of the desk research. The interview questions also covered the identification of best practices and opportunities for improvement of the national system. The outcome of the interviews is provided together with the answers to the questionnaire in annex to the Final Report.

The findings of Task 1 are reflected in two main outputs: the answers to the questionnaire, completed by the interview summaries, and Section 2 of the present report.

Task 2 Assessment on the national framework and measures adopted at national level against nationals engaged in/supporting IUU fishing

Task 2 consisted of an overall assessment of the system of each Member State with regard to Articles 39 and 40 of the IUU Regulation. It was carried out in three steps:

- Step 1: Definition of criteria for the assessment;
- Step 2: Completion of the assessment;
- Step 3: Report drafting.

⁵⁹ Missing reply from Luxembourg. For more details, see Section 1.2.2.

The performance of the national frameworks and measures described in Task 1 was **assessed against a set of criteria**. The list of criteria corresponds to the topics for which information could be gathered and was presented Section 2. Based on the criteria, the **assessment of the national systems** was made by the Project Management Team.

The results of the analysis completed under Task 2 are provided in Section 3 of the Final Report, which includes a comparative assessment between Member States and identifies best practices, shortcomings and opportunities for improvement.

1.2.2 Data collection

The questionnaire was sent to the contact points of the Member States' authorities on 26 January 2022. The original deadline was set on 21 February 2022. This deadline was extended by a week for the Member States which requested it. The Project Management Team then followed up separately with Member States that were late in their submission, contacting additional authorities identified by the Commission. The Commission also sent reminders to the said Member States. In parallel, the national experts were asked to call the relevant authorities to encourage submission of a reply. Feedback was received between 1 February and 5 April 2021 from 26 Member States⁶⁰.

The overall quality of the replies to the questionnaire is satisfying as they mostly contain answers to all the questions and interesting input for the study. Some discrepancies and gaps were noted but the data was mostly very helpful for the national experts.

The quantitative data was not as satisfying as the answers to the Member States' questionnaires. Out of the 26 Member States that provided a response to the survey, 16 indicated that data on the sanctioning of nationals engaged in IUU activities under Articles 39 and 40 IUU Regulation is recorded. However, among those that responded positively, five (Cyprus, Estonia, France, Italy and Poland) did not provide data on the aspects relevant to this study. Moreover, the data provided by Greece, Spain, Finland, Malta and Portugal is incomplete.

The Member State authorities for the majority were cooperative and agreed to interviews in a relatively short timeframe. They sometimes asked or offered to complete their answers with written feedback. Interviews could be carried out with 24 Member States between 1 March and 13 April 2022⁶¹. The interview summary was sent to the national authorities for validation after each interview⁶².

1.2.3 Challenges

Timeframe

Thanks to the active cooperation with the Commission, the consultation could start a few days before the planned date, giving the Member States more time than anticipated (four weeks + one week of possible extension) to reply. Given the very tight timeframe, several measures were adopted to increase a timely response:

- A **letter** was sent in advance of dissemination **by the Commission** to the national authorities to inform them of the upcoming questionnaire and encouraging them to reply, especially because the questionnaire replaced section 12 of the biennial reports which were sent to the

⁶⁰ No answer was received from the Luxembourgish authorities. Information was provided by the authorities to the Commission that the legislation is currently being modified.

⁶¹ Additional information was provided in written by Germany, and Sweden. For Portugal and the Netherlands, a date could not be set within the timeframe of the project. Luxembourg did not provide an answer.

⁶² National authorities of BG, CZ, DK, HR, IT, MT, PL, RO did not formally validate the summaries within the timeframe of the project.

MS during April

- Authorities were asked at the time of dissemination of the questionnaire to confirm that they were the **right recipients**. All but Luxembourg, Malta, and Romania confirmed or provided a different contact person. The Finnish authorities also transferred the questionnaire to the separate autonomous island of Åland.
- Our national experts for the three non-replying Member States were then asked to **liaise directly with the contact points** to follow up and ensure the right persons were reached. This enabled the receipt of the response to the questionnaire for Romania; and the identification of several alternative contact points in Malta (though a reply is still missing). However, no reply was ever received directly by Milieu or the national expert for Luxembourg.
- The Project Management Team followed up with the national authorities and sent **regular reminders** to the Member States' authorities to ensure a timely response. Reminders sent also included the email addresses of the hierarchy of many of the national contact points (shared by the Commission) in copy. This allowed a few Member States to raise concerns about the timing, and to deliver within the planned extension; thus, still timely.
- The **Commission's intervention** was also instrumental to obtain timely answers. The IUU team sent a separate reminder to the countries which had not replied by the initial deadline; in addition to contributing to timely replies; it also enabled to gain some information on the status of the Luxembourg reply.

As a result of these efforts, half of the Member States (14) had replied by the initial deadline (21 February); and 19 Member State had provided their answer by the extended deadline (28 February).

In spite of this relatively positive response rate, some replies were also received quite late (the latest one was received on 5 April). As a result, for a number of Member States there were **delays in the work of the national experts** and in the planning of the necessary interviews to complete the data collection, and consequently, **delays in the finalisation of the compilation** of the information provided by the Member States and in a tight timeframe to complete the comparative analysis present in the present report.

Limited quantitative results

As indicated above, the data provided regarding the number of cases involving IUU activities by nationals under the scope of Articles 39 and 40 IUU Regulation is **scarce**. This is mainly due to the fact that at least half of the Member States **do not record** the relevant data. Data was **incomplete** for Finland, Portugal and Spain, and not provided in spite of the fact that they are recorded in Cyprus, France, Italy and Poland.

The limited data available shows that **very few cases** of nationals identified as supporting/engaging in IUU fishing activities under Articles 39 and 40 IUU Regulation occurred over the period between 2017-2021. The numbers provided in the answers to the questionnaire were usually **challenged by the national experts** during the interview to ensure an as complete and accurate reporting on these numbers. This process enabled in some cases to clarify the scope of the data sought for and to modify some of the reported numbers.

Difficulties in understanding of the scope and key concepts covered by the study

Some doubts were raised by the national authorities during the data collection phase as to different key concepts which were instrumental to understanding the scope of the study. In particular, the exact scope encompassed in the concept of '**national**' and the related obligations stemming from Articles 39 and 40 of the IUU Regulation was often misconstrued. In most cases, 'nationals' were wrongly assimilated to vessels flying the flag of the Member State under study.

To avoid misunderstandings, a **glossary** was provided together with the questionnaire, and was also shared with the national experts. Clarifications were also provided on an **ad hoc** basis during the consultation phase. An informal **meeting** was also organised with the DG MARE desk officer to ensure a

common understanding of the scope and of the approach to be taken.

2 OVERVIEW OF THE ENFORCEMENT SYSTEMS REGARDING NATIONALS ACROSS THE EU

The data presented reflects the answers provided by the national authorities to the consultation for all Member States but Luxembourg.

2.1 OVERVIEW OF THE LEGISLATIVE FRAMEWORKS REFLECTING ARTICLES 39 AND 40 OF THE EU IUU REGULATION

2.1.1 Legal acts reflecting Articles 39 and 40 of the EU IUU Regulation in the legal frameworks of the Member States

Because they are embedded in an EU Regulation, the requirements provided in Articles 39 and 40 are directly applicable in the Member States. They do not formally need to be reflected in a national instrument. Nevertheless, it may be considered that reference to the provisions would contribute to their proper implementation.

Table 1 below provides a summary of the key legal acts reflecting Articles 39 and 40 of the EU IUU Regulation in the Member States' national legal frameworks.

Table 1 Key legal acts

MS	Key legal acts
AT	<ul style="list-style-type: none"> ■ Ordinance BGBl II Nr 382/2009 ■ Market Order Act, BGBl. I Nr. 55/2007 as amended by BGBl. I Nr. 104/2019
BE	<ul style="list-style-type: none"> ■ Order of 5 February 2016 of the Flemish Government establishing the operation and management of the Financing Instrument for the Flemish fisheries and aquaculture sector (FIVA) and the operations eligible for support (Order Financing) ■ Decree of 28 June 2013 on agricultural and fisheries policy (Decree Fisheries) ■ Order of 14 December 2012 of the Flemish Government introducing a point system for serious infringements in maritime fisheries (Order Points) ■ Order of 16 December 2005 of the Flemish Government establishing a fishing licence and laying down temporary measures for the implementation of the Community scheme for the conservation and sustainable exploitation of fisheries resources
BG	<ul style="list-style-type: none"> ■ Fisheries and Aquaculture Act last amended, State Gazette No. 52 of June 9, 2020 ■ Ordinance No. 3 of 19 February 2013 on the application of a point system for serious infringements as amended and supplemented by the State Gazette, issue 84 of October 20, 2017.
CY	<ul style="list-style-type: none"> ■ Law 134(I)/2006 (consolidated version) ■ Regulatory administrative act No. 138/2009
CZ	<ul style="list-style-type: none"> ■ Act No. 61/2000 Coll., Maritime Navigation Act, as last amended ■ Act No. 99/2004 Coll., ACT on fisheries, the exercise of fishing rights, fisheries guards, the protection of marine fishery resources and the amendment of certain acts (Fisheries Act), as last amended ■ Act No. 40/2009 Coll., Criminal Code, as last amended ■ Act No. 418/2011 Coll., On Criminal Liability of Legal Entities and Proceedings against Them, as last amended
DE	<ul style="list-style-type: none"> ■ Sea Fisheries Act, in particular §§18, 19 ■ Sea Fisheries Fines Ordinance, in particular § 20 ■ Sea Fisheries Ordinance, in particular § 16 in connection with Annex 5 (to § 16 paragraph

MS	Key legal acts
	1)
DK	<ul style="list-style-type: none"> ■ Fisheries act ■ Executive orders regarding EMFF/EMFAF support ■ Executive order regarding de minimis support ■ Executive order regarding point system
EE	<ul style="list-style-type: none"> ■ Fishing Act ■ Fisheries Market Organisation Act ■ Many other national legal acts may be relevant because the requirements, especially Article 39 (1) and Article 40 (1), are worded in a general manner. The most relevant general laws are as follows: <ul style="list-style-type: none"> ■ Law Enforcement Act ■ Substitutional Performance and Non-Compliance Levies Act ■ Code of Misdemeanour Procedure ■ Penal Code ■ Code of Criminal Procedure
EL	N/A
ES	<ul style="list-style-type: none"> ■ Law 3/2001(Spanish State marine fisheries Law). ■ RD 1134/2002 (Royal decree for the sanctioning of Spanish nationals serving on board vessels under flags of convenience). ■ RD 182/2015 (Royal decree that approves the sanctioning regulation on outside waters maritime fishing). ■ Law 39/2015 (Spanish administrative procedures Law). ■ RD 1027/1989 (Royal decree on flagging, ship registration and maritime registration). ■ RD 1173/2015 (Royal decree on aid and compensation for permanent and temporary cessation of fishing activities). ■ RD 956/2017 (Royal decree on regulation framework for the European Fisheries and Maritime Fund). ■ D 2077/2010 (Decision on third countries vessels IUU fishing control). ■ RD 430/2020 (Royal decree that sets-up the Agriculture, Fishing and Food Ministry organisational structure). ■ RD 176/2003 (Royal decree on fishing control and inspectorate). ■ RD 1549/2009 (Royal decree on fishing sector organisation and adaptation to the European Fishing Found). ■ RD 114/2013 (Royal decree that creates and regulates the national register for serious fishing infringements, establishes points system regulation and updates Spanish fishing fine amounts). ■ This legislative framework is deeply interconnected. It goes from general IUU fishing regulation (including those provisions related to the prosecution of nationals), through the inspectorate, to infringements and sanctions.
FI	<ul style="list-style-type: none"> ■ § 51 and § 52 of the Act on Sanctioning System and Supervision of the Common Fisheries Policy (1188/2014) (‘the National Monitoring Act’)
FR	N/A
HR	<ul style="list-style-type: none"> ■ Marine Fisheries Act
HU	<ul style="list-style-type: none"> ■ Act C of 2012 on the Criminal Code, Articles 3, 12-14, 33, 63 and 246 (implementing Articles 39(1) and (3) of the IUU Regulation).
IE	<ul style="list-style-type: none"> ■ Sea-Fisheries and Maritime Jurisdiction Act 2006. ■ Maritime Jurisdiction Act 2021 (“2021 Act”). The 2021 Act, repeals Part 3 of the 2006 Act relating to maritime jurisdiction and inserts new provisions into Irish law. ■ SI 544 of 2010 Sea Fisheries (Illegal, Unreported and Unregulated Fishing) Regulations 2010 (“2010 Regulations”) ■ SI 37 of 2021 Sea Fisheries (Illegal, Unreported and Unregulated Fishing) (Amendment)

MS	Key legal acts
	Regulations 2021 (“2021 Regulations”)
IT	<ul style="list-style-type: none"> ■ Legislative Decree No. 4 rearranging the national legislation on fisheries and aquaculture of 9 January 2012 repealing Act No. 381 amending Act of 14 July 1965, No. 963, regulating sea fishing ■ Decree of 29 February 2012 sets modalities, terms and procedures for implementing the points system for fishing licence in case of serious offences ■ Legislative Decree No 4/2012
LT ⁶³	<ul style="list-style-type: none"> ■ Law on Fisheries (Nr. VIII-1756), No VIII-1756. Publication reference: Žin., 2000, Nr. 56-1648. Consolidated version of 01-11-2021 ■ Code of Administrative Offences of the Republic of Lithuania, No XII-1869, adopted on 25 June 2015. Publication reference: TAR, 2015-07-10, No 11216 (consolidated version of 29-01-2022)
LV	<ul style="list-style-type: none"> ■ Fishery Law (Article 14(1)) ■ Regulations No 598 on the Granting, Administration and Monitoring of State and European Union Support for Rural and Fisheries Development ■ Regulation No 296 ‘Regulations Regarding Commercial Fishing in Territorial Waters and Economic Zone Waters’ ■ Law on Administrative Liability ■ Criminal Law (Article 110 on Arbitrary Fishing and Acquisition of Aquatic Animals)
MT	<ul style="list-style-type: none"> ■ Chapter 425 of the Laws of Malta and its subsidiary legislation. ■ Fisheries Conservation and Management Act ■ Subsidiary Legislation 425.08 (the ‘Enforcement of Sea Fishing Conventions Order’)
NL	<ul style="list-style-type: none"> ■ Execution Regulation Sea Fisheries (Article 140(1))
PL	<ul style="list-style-type: none"> ■ Act of 19 December 2014 on Sea Fisheries (Journal of Laws of 2021, item 650, as amended) ■ Act of 10 July 2015 on the financial support under European Maritime and Fisheries Fund (Journal of Laws of 2020, item 2140) ■ Regulation of the Minister of the Maritime Economy and Inland Navigation of 21 December 2018 on the criteria on the basis of which Main Sea Fisheries Inspector qualifies infringements as serious. ■ Regulation of the Minister of Agriculture and Rural Development of 18 September 2015, as amended on 21 December 2018, on the amount of fines for infringements of sea fisheries rules ■ Regulation of the Minister of Agriculture and Rural Development of 26 August 2015, as amended on 21 December 2018, on the value of fines for serious infringements of the common fisheries policy. ■ Regulation of the Minister of the Maritime Economy and Inland Navigation of 11 January 2019 on the allocation of additional fishing capacity.
PT	<ul style="list-style-type: none"> ■ Decree-law n° 35/2019, laying down the sanctions applied to the commercial maritime fishing activity, including the punishment of facts practiced on IUU fishing vessels by nationals
RO	<ul style="list-style-type: none"> ■ Emergency Ordinance no. 57 of July 3, 2019, regarding the Administrative Code ■ Law no. 108 of June 16, 1999 (* republished *) for the establishment and the organization of the Labour Inspection ■ Emergency Ordinance no. 85 of November 23, 2016, for the amendment and completion of the Government Emergency Ordinance no. 23/2008 on fishing and aquaculture
SE	<ul style="list-style-type: none"> ■ Fisheries Act (1993:787) ■ Act (1994:1709) on EU Regulations of the Common Fisheries Policy

⁶³ In addition, certain issues related with IUU fishing, are also reflected (although indirectly) in the legislation governing, e.g., operation of the Police, State Border Guard Service, employment of Lithuanian nationals in the third countries.

MS	Key legal acts
	<ul style="list-style-type: none"> ■ Ordinance (1994:1716) on Fishing, Aquaculture and the Fishing Industry ■ Swedish Criminal Code (1962:700)
SI	<ul style="list-style-type: none"> ■ Marine Fisheries Act ■ Decree on the implementation of the Regulation (EC) establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing ('IUU Decree') ■ Decree Implementing the Regulation (EEC), Regulations (EC) and the Regulations (EU) for the Determination of Infringements and Sanctions in the Field of the Common Fisheries Policy ('the Sanctions Decree') ■ Decree on the Implementation of Measures from the Operational Programme for the Implementation of the European Maritime and Fisheries Fund in the Republic of Slovenia for the period 2014–2020 Carried out Through Public Tenders ('the Measures Decree')
SK	N/A

All Member States but **France, Greece and Slovakia** reflect to some extent the requirements of Articles 39 and 40 of the IUU Regulation within their national legal order. Greece has not put in place legal acts that reflect Articles 39 and 40 of the IUU Regulation in the national legal framework. The interviewee indicated that measures should be adopted in the future thanks to the outsourcing of legal matters to a legal consultancy. In view of the direct applicability of the relevant provisions, the adoption of measures was not deemed necessary in France. Though the provisions are reflected in national law, the same point was raised by Finland. In Croatia, the Fisheries Act simply refers to the direct applicability of the IUU Regulation. In Romania, the legislation listed does not directly implement Articles 39 and 40 but contains general requirements concerning employment and crime prevention; however, modification of the current legislation concerning the implementation of the IUU Regulation is contemplated by the National Agency for Fisheries and Aquaculture (ANPA).

2.1.2 Major changes of the national enforcement frameworks since 2017

In eleven of the Member States, there were changes relevant to at least some extent to the legal acts relevant to obligations applying to nationals in the past five years. A full overview of such changes is presented in Table 2 below. Changes mainly relates to the sanctioning system or the role of enforcement authorities.

Table 2 Major changes to national enforcement frameworks since 2017

MS	Major changes to national enforcement frameworks since 2017
BG	<ul style="list-style-type: none"> ■ The Fisheries and Aquaculture Act was amended many times in the period 2017-2022, but the most significant changes were adopted in SG 55/2018 where the control powers of the inspectors were further enhanced. In 2017, the Ordinance No 3 was amended to regulate cases where points are not assigned due to their insignificance and the application of points in case of repeat infringements.
DE	<ul style="list-style-type: none"> ■ Amendments to the Sea Fisheries Act, Sea Fisheries Ordinance and Sea Fisheries Fines Ordinance are made regularly. The most recent amendment was made to the Sea Fisheries Act and has been in force since 01.06.2021.
EE	<ul style="list-style-type: none"> ■ In 2021, the Fisheries Market Organisation Act was modified. § 27 (2) (7) requires applications for fund support and requires applicants to meet specific requirements to access the European Maritime and Fisheries Fund. This reflects Article 40(3) of the IUU Regulation.
ES	<ul style="list-style-type: none"> ■ The Spanish Government is currently drafting major legal changes in the fishing law in general, affecting the IUU legal framework, in particular. The Government is planning a

MS	Major changes to national enforcement frameworks since 2017
	regulation based on three pillars, i.e. three different but interconnected laws: one focusing on sustainable fishing and research, another on control and surveillance, and the third one will be on fisheries marketing and related management issues. This regulatory framework, as a whole, is expected to affect the IUU. The marketing law will possibly regulate, for example, the export of vessels or the traceability of fishery products.
IE	<ul style="list-style-type: none"> The 2021 Regulations took effect on 28 January 2021. They extended the ports in Ireland for direct landings of fishing vessels registered in Third Countries along with the modality of authorisations for such landings. The powers of Irish Border Control Post (BCP) and the ability of the Sea Fisheries Protection Authority (“SFPA”) to make administrative decision to accept shorter notification period is also clarified in the 2021 Regulations along with the BCP authorisation to implement certain regulations. The 2006 Act has also been updated by the repeal of Part 3 and updates in 2021 Act in relation to maritime jurisdiction in Ireland.⁶⁴
LT	<ul style="list-style-type: none"> The Law on Fisheries was amended to allow revoking the vessel certificate in case the vessel is included to the list of vessels engaged in IUU fishing. Article 177(5)(3) of the Law entered into force on 01.11.2021.
LU	<ul style="list-style-type: none"> A 2018 project of legislation to sanction people supporting IUU businesses is to be voted by the Parliament⁶⁵.
LV	<ul style="list-style-type: none"> In 2020, the Administrative Violations Code was replaced by the Law on Administrative Liability, which now regulates the administrative process, leaving the type and level of sanctioning for the sectoral legislation, that is, the Fisheries Law in the case of IUU fishing. The administrative liability system was reformed, but it did not change the approach to sanctioning in terms of substance.
PL	<ul style="list-style-type: none"> The Act of 9 November 2018 amending the Act on Sea Fisheries introduced a new organisational structure for the administrative bodies responsible for market supervision of compliance with regulations on sea fishing and on the organisation of the fish market in Poland. A new, central government administration body – the Chief Sea Fisheries Inspector - replaced the previously operating sea fishery inspectors of three districts. The change was aimed in particular at unifying the practical implementation of the law by the authorities. The provisions recasting the administrative structure of the fisheries authorities came into force on 1 of January 2019.
PT	<ul style="list-style-type: none"> Decree-law n° 35/2019, laying down the sanctions applied to the commercial maritime fishing activity, including the punishment of facts practiced on IUU fishing vessels by nationals, was adopted.
SI	<ul style="list-style-type: none"> Changes were made to ensure implementation of the relevant provisions of the EU Common Fisheries Policy, in particular as regards points for serious infringements. The IUU Decree was amended in 2021, providing that the Administration of the Republic of Slovenia for Food Safety, Veterinary Medicine and Plant Protection is responsible for verification and certification of declarations on the export of processed fishery products to third countries, if the third country requires such a declaration.

2.1.3 Presence of other, non-legislative, documents (soft law) relevant for the implementation of the obligations of the IUU Regulation applying to nationals

As illustrated in Table 3 below, in less than half of the Member States, there are also non-legislative documents (soft law) which are relevant for the implementation of the obligations of the IUU Regulation

⁶⁴ Available at: <https://www.irishstatutebook.ie/eli/2021/act/28/enacted/en/html>.

⁶⁵ Information provided by the Luxembourgish authorities to the European Commission in the context of this project.

applying to nationals.

Table 3 Other relevant documents

MS	Other relevant documents
AT	<ul style="list-style-type: none"> ■ On the webpage of the Austrian Federal Office for Food Safety (BAES), a guidance document is available. The purpose of this non-binding document is to provide guidance for the submission of the catch certificate. ■ The Minister for Finance has adopted a Guidance paper for the implementation of the EU IUU Regulation, GZ BMF-010311/0015-IV/8/2010 from 1 March 2010. The Guidance Paper for the implementation of the EU IUU Regulation, GZ BMF-010311/0015-IV/8/2010 from 1 March 2010 adopted by the Minister for Finance provides for support in the interpretation of provisions of the IUU Regulation by custom and finance authorities.
BE	<ul style="list-style-type: none"> ■ The Common Fisheries Policy has further been implemented within the Flemish Region through some informative circulars. They include further understandings related to the electronic logbook, new European technical measures, the catch certificate, etc.
DE	<ul style="list-style-type: none"> ■ A Decree of the Ministry to the Federal Agency for Agriculture and Food was issued in 2019 concerning the application of the point system for serious infringements according to § 13 Fisheries Act together with an annex.
DK	<ul style="list-style-type: none"> ■ Guidance on the application of the rules on points in the event of serious breaches of fisheries legislation was issued.
FR	<ul style="list-style-type: none"> ■ The only available document is a technical note on sanctions via the points system, intended for enforcement authorities. The note is not publicly available.
IT	<ul style="list-style-type: none"> ■ Circular ‘Adoption of a provisional regime in order to guarantee the exact implementation of the community provisions referred to in EC Regulation N.1005/2008’. ■ Internal guidelines dictating the implementation of rules and operational strategies (not publicly available).
LT	<ul style="list-style-type: none"> ■ Rules for the administration of the Lithuanian Fisheries Sector Operational Programme 2014–2020, ■ Fisheries control programme for 2021-2023, adopted on 17 December 2020 ■ Fisheries control programme for 2016-2020
NL	<ul style="list-style-type: none"> ■ Guidelines on serious infringements CFP 2020.
PL	<ul style="list-style-type: none"> ■ Regularly updated information concerning IUU fishing available on the authority’s websites (Main Sea Fisheries Inspectorate in Słupsk; Main Sea Fisheries Inspectorate - Regional Centre in Gdynia; Main Sea Fisheries Inspectorate - Regional Centre in Szczecin)
RO	<ul style="list-style-type: none"> ■ ANPA has issued communications to stakeholders. ■ Periodical information is published on ANPA website.
SI	<ul style="list-style-type: none"> ■ Guidelines available on the internet site managed by the Slovenian Financial Administration. The site contains a number of documents, which provide clear instructions for exporters and importers of fisheries products regarding IUU measures related to import and export of fisheries products.

2.2 MEASURES IMPLEMENTING ARTICLES 39 AND 40 OF THE IUU REGULATION INTO THE NATIONAL LEGAL ORDERS

2.2.1 Obligations for nationals

Table 4 below indicates whether the provisions of the IUU Regulation applying to nationals (Articles 39(1) and 40(2)) are reflected in national law, along with the corresponding legal reference(s) provided by the national authorities.

Article 39 Nationals supporting or engaged in IUU fishing

(1) Nationals subject to the jurisdiction of Member States (nationals) shall neither support nor engage in IUU fishing, including by engagement on board or as operators or beneficial owners of fishing vessels included in the Community IUU vessel list.

Article 40 Prevention and sanction

(2) Nationals shall not sell or export any fishing vessel to operators involved in the operation, management or ownership of fishing vessels included in the Community IUU vessel list.

Regarding Article 39(1), two third of the Member States (18)⁶⁶ incorporate the infringement directly into their national order. For several of them, such as **Croatia, Italy, Poland** or **Spain**, this is implied by setting up penalties to sanction this provision.

In relation to Article 40(2), only one third of the Member States (9)⁶⁷ reflect the infringement into national law. Authorities of land-locked countries such as the **Czech Republic** and **Hungary** indicated that nationals of their Member States do not have fishing vessels. This argument was raised by Slovakian authorities for both Article 39 and 40, indicating that the **Slovak Republic** is landlocked country without approved fishing vessels, owners or operators of vessels and determined ports.

The remaining Member States have either included a provision with a direct reference to the Regulation in their national law or argue direct applicability of the Regulation, without specific reference into national law.

⁶⁶ AT, BE, BG, CZ, DE, EE, ES, FI, HR, HU, IE, IT, LT, NL, PL, PT, SE and SI.

⁶⁷ BE, DE, EE, ES, FI, HR, IT, NL and SI.

Table 4 Obligation for nationals⁶⁸

	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU
Art 39(1)	§9 of the legal act BGBl. II Nr. 382/2009	Article 26 Order Financing	Fisheries and Aquaculture Act - indirect obligations for nationals for prevention of IUU fishing Article 14, 17, 19, 30, 32, 35 and 46-48	Article 11(f) of Law 134(I)/2006 (direct application of IUU Regulation)	Act No. 99/2004 Coll., as last amended ⁶⁹ .	Sea Fisheries Act, Sea Fisheries Fines Ordinance	Fisheries Act § 10 and §130 (8) (direct application of IUU Regulation)	Fishing Act § 10 (10), (11).		Articles 100.1.1, and 101.j.k.1 and m of Law 3/2001 establishes the rules on serious and very serious infringements.	51 § National Monitoring Act		Article 77.1 points 1 to 10, Article 78.1 points 1 to 3 and Article 84.1 points 3 to 8 of the MFA (sanctions)	Article 39(1): Act C of 2012 on the Criminal Code, Section 246 ⁷⁰ .
Art 40(2)		Articles 3-4 and Article 7 Oder of 16 December 2005		Article 11(f) of Law 134(I)/2006 (direct application of IUU Regulation)	N/A No fishing vessels. CZ	Sea Fisheries Act, Sea Fisheries Fines Ordinance, Sea Fisheries Ordinance	§ 130 (8) in the Fisheries Act.	Fishing Act § 10 (10), (11).		To export a fishing vessel: Art. 6 of RD 1549/2009. Art. 63 of RD 1027/1989.	51 § National Monitoring Act		Article 84.1 point 9 of the MFA sets the sanction.	N/A No Hungarian fishing vessels.
	IE	IT	LT	LV	MT	NL	PL	PT	RO	SE	SI	SK		
Art 39(1)	S.I. No. 554/2010 - Sea-Fisheries (Illegal,	Art. 7 and 10 Legislative Decree 4/2012	Article 53 (2.12) of law on fisheries.	Direct applicability of the	Reference in national law to direct application of	Article 140(1) Execution Regulation Sea	Art. 15 point 7, art. 35 point 2, art. 36 paragraph	Decree-law n° 35/2019, article 9°, article 12°		37-40 a §§ of the Fisheries Act	Decree implementing the Regulation (EEC),	No fishing vessels, owners or operators of		

⁶⁸ The data provided in this table does not necessarily reflect the views provided in answer to the questionnaire/interview by the national authorities (it also includes the results of the desk research, and harmonisation of the approach across Member States).

⁶⁹ The Czech version can be found here: <https://www.zakonyprolidi.cz/cs/2004-99>;

⁷⁰ https://thb.kormany.hu/download/a/46/11000/Btk_EN.pdf

	IE	IT	LT	LV	MT	NL	PL	PT	RO	SE	SI	SK
	Unreported and Unregulated Fishing) Regulations 2010, Articles 7, 8, 9, 10, and 11 ⁷¹	(sanctions)	Provisions concerning serious infringements	Regulation.	IUU Regulation	Fisheries	1, art. 37 paragraph 1 point 1, art. 43 paragraph 2 point 1, art. 55 paragraph 4 point 1 and art. 77 of the Act of 19 December 2014 on Sea Fisheries (sanctions)	1.d) and in the Annex.		23rd Chapter of the Criminal Code, mainly 2 and 4 §§. 11 § of Act (1994:1709) on EU Regulations of the Common Fisheries Policy	Regulations (EC) and the Regulations (EU) for the determination of infringements and sanctions in the field of the Common Fisheries Policy	vessels and determined ports. System of controls, verifications and dissuasive sanctions in place, set out in the Veterinary Care Act.
Art 40(2)	S.I. No. 554/2010 - Sea-Fisheries (IUU Fishing) Regulations 2010 S.8 does not apply to vessels, but products.	Art. 7 and 10 Legislative Decree 4/2012	National legislation restricts possibility to buy or rent IUU vessel. But not selling to operator engaged in IUU fishing.	Direct applicability of the Regulation.	Direct applicability of the Regulation.	Article 140(1) Execution Regulation Sea Fisheries.	Direct applicability of the Regulation			Direct applicability of the Regulation	Decree on the implementation of the IUU Regulation, Article 7.	As above.

	Reflected in national law
	Not reflected in national law

⁷¹ While the provisions in Irish law do not specifically refer to the concept of support or engagement as referred to under Article 39(1), it would appear that, when read together, the provisions set out above, prohibit the engagement in IUU whether through import, export or placing fishery products on the market contrary to the requirements of the EU IUU Regulation. A consideration of nationals supporting IUU is considered in further detail below.

2.2.2 Obligation for Member States regarding nationals

Articles 39 and 40 include requirements applying directly to the Member States' authorities, as follows:

<p>Article 39 Nationals supporting or engaged in IUU fishing</p> <p>(2) Without prejudice to the primary responsibility of the flag State, Member States shall cooperate amongst themselves and with third countries and take all appropriate measures, in accordance with national and Community law, in order to identify nationals supporting or engaged in IUU fishing.</p> <p>(3) Without prejudice to the primary responsibility of the flag State, Member States shall take appropriate action, subject to and in accordance with their applicable laws and regulations with regard to nationals identified as supporting or engaged in IUU fishing.</p> <p style="text-align: center;">Article 40 Prevention and sanction</p> <p>(1) Member States shall encourage nationals to notify any information pertaining to legal, beneficial or financial interests in, or control of, fishing vessels flagged to a third country which they hold and the names of the vessels concerned.</p> <p>(3) Without prejudice to other provisions laid down in Community law pertaining to public funds, Member States shall not grant any public aid under national aid regimes or under Community funds to operators involved in the operation, management or ownership of fishing vessels included in the Community IUU vessel list.</p> <p>(4) Member States shall endeavour to obtain information on the existence of any arrangement between nationals and a third country allowing the reflagging of fishing vessels flying their flag to such third country. They shall inform the Commission thereof by submitting a list of the fishing vessels concerned.</p>
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Table 5 below indicates whether the provisions of the IUU Regulation reflecting obligations of the Member States (Article 39 (2) and (3) and 40 (1), (3) and (4)) are reflected into national law along with the corresponding legal reference provided by the national authorities.

As for obligations applying to nationals, the Regulation's requirements applying to Member States have been reflected to various extent in national law. **Denmark, France, Finland** invoked the direct applicability of the Regulation to explain the absence of explicit provisions in domestic law. Along the same lines, a general provision providing for the application of the IUU Regulation as a whole in the national legal system is provided in national law of **Cyprus and Croatia**. In **Malta**, a comparable situation applies, but national law includes in addition a few provisions which give effect to some of the elements of Articles 39 and 40 more concretely. In **Ireland**, the law provides for the power of the authorities to make the required regulation, but so far, no express obligation reflecting Articles 39 and 40 has been adopted. Approaches vary across land-locked Member States, with **Austria and Hungary** incorporating few provisions in their national legal order and the **Czech Republic and Slovakia** none⁷².

Article 39(2) on cooperation and adoption of measures to identify nationals supporting or engaged in IUU fishing is reflected in national law in seven Member States⁷³.

For instance, in **Spain**, national law provides for a general obligation to take appropriate action to dissuade Spanish nationals from carrying out IUU fishing or supporting it by vessels flagged to third countries that fish outside EU waters. It shall include identification measures, as well as verification of nationals' activities linked to vessels of third countries fishing outside EU waters. National professionals have to inform the authorities prior to working in a vessel from a third country. Several identification data must be provided and updated (if data changes).

While not reflected, the authorities consulted indicated that it was nevertheless applied in practice in **Belgium and France**.

⁷² No data was gathered for LU.

⁷³ AT, DE, EE, ES, IT, MT and PL.

Article 39(3) requiring Member States to take appropriate action take with regard to nationals identified as supporting or engaged in IUU fishing was reflected in the national legal framework of more than half of the Member States (14)⁷⁴.

In **Poland** and **Malta**, relevant provisions mainly refer to the possibility to impose sanctions in case of engagement or support of IUU fishing, including by nationals.

In **Ireland**, national law empowers authorities to enact the relevant regulation, but does not provide an obligation to take action.

Article 40(1) which puts on Member States the responsibility to encourage nationals to notify any information on the fact that they hold interests in, or control of, fishing vessels flagged to a third country and the names of the vessels concerned, is reflected in national law of six Member States⁷⁵. **Cyprus** designates the relevant authorities for this assignment. In **Estonia**, the requirement is reflected in the Income Tax Act. In practice, research indicates that income tax returns are however not regularly screened to identify potential IUU fishing activities. The use of income tax returns for such purpose therefore rather constitutes a theoretical possibility. **Spanish** nationals are obliged to provide all the documentation requested by the authorities, as well as collaborate with them in the framework of fishing regulation in general, but also in particular regarding actions taken on board of fishing vessels flying the flag of a third country.

In **Poland**, interested entities can provide information to the Minister of Agriculture and Rural Development through a publicly available Electronic Platform of Public Administration Service (ePuap) or via e-mail (both ePuap and email details are provided on web page of the Minister).

Among the Member States which do not provide the requirement by law, **Belgian** authorities indicated that the provision was nevertheless applied in practice, but only in relation to vessels under Belgian flag. Similarly, in **Slovenia**, the authorities indicated that Article 40(1) is effectively implemented as the Inspectorate for Agriculture, Forestry, Hunting and Fisheries, which is responsible for IUU inspections, provides on its website a possibility to provide information online (anonymously or with an electronic signature).

Article 40(3) prohibiting Member States to grant public aid to operators involved in the operation, management or ownership of fishing vessels included in the Community IUU vessel list is mentioned in the national law of 13 Member States⁷⁶. The provision was considered not applicable by national authorities of the land-locked Member States. For **Hungary**, the authorities consulted indicated that they have no knowledge of nationals who have any kind of interest in fishing vessels included in the EU IUU vessel list.

In **Cyprus**, **Italy** and **Spain**, the requirement is provided in all grant schemes for funding. This issue is regulated separately depending on the funds in several Member States. For instance, in **Germany**, the 'Guideline on the promotion of liquidity assistance for fisheries undertakings in the context of the implementation of the Brexit Adjustment Reserve' of 29 July 2021⁷⁷ was mentioned as an example of instrument ensuring the implementation of Article 40(3).

In **Estonia**, **Poland** and **Slovenia**, national law only covers EU funding schemes. **Bulgarian**, **French**, **Lithuanian** and **Spanish** authorities referred to the application of Regulation (EU) No 508/2014 on EMFF⁷⁸, which requires candidates for EU funds to sign a declaration providing that they did not breach

⁷⁴ AT, BE, DE, EE, ES, FI, HU, IT, LT, LV, MT, NL, PL and PT.

⁷⁵ AT, CY, EE, ES, LV and PL.

⁷⁶ BE, CY, DE, DK, EE, ES, IT, LV, NL, PL, PT, SE and SI.

⁷⁷ BAnz. AT 13.08.2021 B1.

⁷⁸ Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund and repealing Council Regulations (EC) No 2328/2003, (EC) No 861/2006, (EC) No 1198/2006 and (EC) No 791/2007 and Regulation (EU) No 1255/2011 of the European Parliament and of the Council, OJ L 149 20.5.2014, p.1.

the obligation set in Article 40(3) of the IUU Regulation. While the requirement is embedded in national law in Spain, no express provision reflecting Article 40(3) as such was adopted in national law in Bulgaria and France. Direct applicability was argued by **Finnish and Maltese** authorities too.

Even though not expressly provided by law, in practice, in **Sweden**, the Swedish Board of Agriculture (in charge of the disbursement of public aid) is obliged to control that a disbursement of any public aid is compatible with Union law before the disbursement in question is made⁷⁹).

Article 40(4) obliges Member States to endeavour to obtain information on the existence of any arrangement between nationals and a third country allowing the reflagging of fishing vessels flying their flag to such third country; and to inform the Commission thereof by submitting a list of the fishing vessels concerned. This requirement is reflected, at least partially, in six Member States⁸⁰. It is not reflected in any of the landlocked countries, because they do not have fishing vessels flying their flags.

Cyprus law designates the competent authorities to implement the obligation.

Denmark, Finland, Germany, Latvia and Poland argued direct applicability. As for Article 40(1), in **Estonia**, the requirement to obtain information is reflected in the Income Tax Act, whereas the duty to inform the Commission is provided in the Fishing Act and implemented via the annual 'Fishing Fleet Capacity Report' submitted to the Commission. In **Spain**, to implement the obligation to obtain information, nationals are obliged to provide all the documentation requested by the authorities, as well as collaborate with them, in the framework of fishing regulation.

In **Lithuania** and **Slovenia**, only the requirement to report to the Commission is reflected into national law.

⁷⁹ 14 § Chapter 4 of the Ordinance on Fishing, Aquaculture and the Fishing Industry.

⁸⁰ CY, EE, ES, IT, LT and SI.

Table 5 Obligation for Member States regarding nationals⁸¹

	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU
Article 39 (2)	§8 of the legal act BGBl. II Nr. 382/2009			The entire legislative act is covered by Art. 11(f) of national law 134(I)/2006.	Considered N/A by CZ authorities.	Sea Fisheries Act, Sea Fisheries Fines Ordinance Sea Fisheries Ordinance	Fisheries Act § 10 and §130 (8) (direct application of IUU Regulation)	Fishing § 10 (10) and (11), § 63, § 64, § 87, Law Enforcement Act §1,2.		Art 40.bis.3, Law 3/2001 Art. 4 Royal Decree 1134/2002. Art. 9.1.gg, RD 430/2020.			Art. 2 point 8 of the MFA providing for direct application of the IUU Reg.	N/A. Hungary has no knowledge of nationals working on fishing vessels (IUU or other) flagged to other countries.
Article 39 (3)	§9 of the legal act BGBl. II Nr. 382/2009	Art. 2 Order on Points		As above.	As above.	Sea Fisheries Act, Sea Fisheries Fines Ordinance Sea Fisheries Ordinance	As above.	Fishing Act § 36 p 8, Law Enforcement Act §1,2.		Art 40.bis.3, Law 3/2001 Art.100.1.1, and 101 k and l, Law 3/2001 Art. 105 of Law 3/2001, Art. 56 of Law 39/2015.	51 § in the National Monitoring Act.		As above.	Act C of 2012 on the Criminal Code, Section 246
Article 40 (1)	§ 30 of the legal act BGBl. I Nr. 55/2007 in connection with § 9 BGBl II Nr.			Law 134(I)/2006	As above.		As above.	Income Tax Act1 § 45, 44		Art. 95 of Law 3/2001. Art. 4, Royal Decree			As above.	Hungary has no knowledge of nationals owning or having interest in

⁸¹ The data provided in this table does not necessarily reflect the views provided in answer to the questionnaire/interview by the national authorities (it also includes the results of the desk research, and harmonisation of the approach across Member States).

	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU
	382/2009 Ordinance BGBl II Nr 382/2009									1134/2002.				fishing ves- sels flagged to third countries.
Article 40 (3)	N/A land- locked country without fishing ves- sels	Art. 26 Fi- nancing Or- der		Included in all grant schemes for funding.	As above.		Example: Fisheries Act §20 7	Fisheries Market Or- ganisation Act, § 27		Art. 105.1.i) and 2.i) of Law 3/2001. (sanctions) Art. 2 of RD 1173/2015 and Art. 3.1.e) of RD			As above.	As above.
Article 40 (4)	As above.			Law 134(I)/2006	As above.		Fisheries Act § 10 and §130 (8) (direct ap- plication of IUU Regu- lation)	Fishing Act § 36 p 8,		Art. 95 of Law 3/2001.			As above	Hungary has no fish- ing vessels that could be reflagged to other countries

	IE	IT	LT	LV	MT	NL	PL	PT	RO	SE	SI	SK
Article 39 (2)	Sea-Fisheries and Maritime Jurisdiction Act 2006 Regulations to give effect to common fisheries pol- icy. S14	Art. 10 Leg- islative De- cree 4/2012.			SL425.10 (Point Sys- tems Order) Art.19(1)(e) and 20(b) of Fisheries Conservation and Manage- ment Act		Art. 107-112 of the Act of 19 December 2014 on Sea Fisheries					

	IE	IT	LT	LV	MT	NL	PL	PT	RO	SE	SI	SK
					Criminal Code Art.42-43 Ch.9 Laws of Malta							
Article 39 (3)	As above.	Art. 11, 12, 14 and 17 Legislative Decree 4/2012.	Law on Fisheries Art. 53-57 (serious infringements).	Fishery Law Law on Administrative Liability	SL425.10 (Point Systems Order)	Art. 130(1), 133(1), 134(1) and (3), 138(1) and 139(1) of the Execution Regulation Sea Fisheries.	Art. 79, 81, 82, 126 and 130 of the Act of 19 December 2014 on Sea Fisheries. Regulation of the Minister of the Maritime Economy and Inland Navigation on the criteria on the basis of which Main Sea Fisheries Inspector Regulation of the Minister of Agriculture and Rural Development on the amount of fines for serious infringements of the CFP.	Decree-law n° 35/2019, Art. 12° 1.d) and in the Annex.				
Article 40 (1)				Fishery Law			Art. 105 paragraph 1 point 4 of the					

	IE	IT	LT	LV	MT	NL	PL	PT	RO	SE	SI	SK
							Act of 19 December 2014 on Sea Fisheries					
Article 40 (3)	Sea-Fisheries and Maritime Jurisdiction Act 2006 S13-15	All national legislative provisions related to distribution of public aid under national or EU regimes.	Art. 10.1 section a and b of EMMF Regulation	Regulations No 598 on the Granting, Administration and Monitoring of State and European Union Support for Rural and Fisheries Development in the 2014–2020 Planning Period, as well as During the Transition in 2021 and 2022		Art. 3.1.3(a) of the Regulation European EZK- and LNV subsidies and Art. 3.1.3(a) of the Regulation European EZK- and LNV subsidies 2021.	Art. 12 point 3(b) of the Act on the financial support under the European Maritime and Fisheries Fund	Decree-law n° 35/2019, Art. 14° 1. 1) and m).		The Swedish Board of Agriculture is obliged to control that a disbursement of any public aid is compatible with Union law (Art.14 § Chapter 4 of the Ordinance on Fishing, Aquaculture and the Fishing Industry).	Decree on the implementation of measures from the Operational Programme for the Implementation of the European Maritime and Fisheries Fund in the Republic of Slovenia for the period 2014–2020, Art. 103	
Article 40 (4)	S.I. No. 554/2010 - Sea-Fisheries (IUU Fishing) Regulations 2010 S6.		Decree of Government of Republic of Lithuania No 458 issued on 2010-04-28, Art 1(1.9).								Decree on the implementation of the IUU Reg. Art. 2 and 7 ⁸²	

	Reflected in national law
	Not reflected in national law

⁸² consolidated version: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=URED8354>

2.3 SANCTIONING PROCEDURES IN THE MEMBER STATES

2.3.1 Sanctions for nationals

2.3.1.1 Jurisdiction to sanction nationals engaged in IUU fishing activities which occurred on board vessels registered in third countries

Table 6 provides an overview of the extent to which the administrative/judicial authorities of each Member State have jurisdiction to sanction any national (masters and/or crew members, as well as owners and/or operators of vessels) engaged in IUU fishing activities which occurred on board vessels registered in them and in third countries, including when operating on the high seas or in third countries' waters.

It also indicates whether and which exceptions apply (e.g. specific circumstances under which nationals engaged in IUU fishing can/cannot be prosecuted or sanctioned by the enforcement authorities) in the Member States.

Table 6 Rules on jurisdiction for nationals engaged in IUU fishing activities

MS	Rules on jurisdiction
AT	The infringement of the IUU Regulation is subject to an administrative sanctioning system. Different from the judicial criminal system, the administrative sanctioning system does not foresee the sanctioning of nationals for administrative sanctions committed outside Austria (see § 2 VStG).
BE	National law provides that the sanctions are towards the holder of the fishing license and the captain of the fishing vessel . In principle, this does not exclude nationals engaged in IUU fishing activities in third countries. However, according to the authorities, in practice, sanctions apply to infractions observed at landings, and Belgium does not have any landings from fishing vessels under the flag of third countries, but only has indirect imports.
BG	The general administrative procedure rules are laid down in Law on Administrative Infringements and Sanctions (LAIS). Article 4 stipulates that its provisions and other laws and decrees which provide for administrative penalties, are applicable to all administrative violations committed on the territory of the Republic of Bulgaria, on a Bulgarian vessel or aircraft and in respect of Bulgarian citizens who have committed administrative violations abroad, punishable under Bulgarian laws, if they affect the interests of the state . The Criminal Code is applicable to all offences committed on Bulgarian territory (irrespective of the nationality or the residency of the offender) as well as to Bulgarian citizens for offences committed by them outside the country .
CY	Authorities consider that a vessel that does not fly the Cypriot flag is not covered by the Cypriot legislation, but it is covered by the legal obligation of the (flag) state where it is registered and the coastal state where it is operating. If this vessel is in international waters, it is covered by the rules of the regional organisation that it is operating.
CZ	Provided that the Czech Republic does not have a direct sea access and no fishing vessels flying Czech flag, the question of jurisdiction was not deemed applicable by national authorities.
DE	If the criminal offence of fish poaching (§ 293 of the Criminal Code) has been committed, criminal proceedings are initiated. In addition, there are also possibilities for punishment according to the Sea Fisheries Act, the Sea Fisheries Ordinance and the Sea Fisheries Fines Ordinance. Sanctions apply to any national involved in IUU fishing but the question of jurisdiction and applicability of sanctions to nationals on board third country vessels is not expressly mentioned under national law.

MS	Rules on jurisdiction
DK	§ 130 8) in the Fisheries Act says that violations under EU regulations concerning IUU fishery are subject to national jurisdiction regardless of whether violations have been committed outside Denmark as long as the violation is committed by a Danish citizen.
EE	<p>The Fishing Act explicitly regulates inspections in waters outside of the Estonian jurisdiction regardless of whether the vessel is in the national register or registered in a third country.</p> <p>The Fishing Act § 63-65 regulate only administrative measures. The applicability of criminal law is defined in the Penal Code § 5-10. The criminal law of Estonia applies to acts committed within the territory of Estonia and acts committed on board of or against ships registered in Estonia, regardless of the location of the ship at the time of commission of the offence or the criminal law of the country where the offence is committed. The criminal law of Estonia also applies to an act committed outside the territory of Estonia if such act constitutes a criminal offence pursuant to the criminal law of Estonia and is punishable at the place of commission of the act, or if no criminal power is applicable at the place of commission of the act and if the offender is a citizen of Estonia at the time of commission of the act or becomes a citizen of Estonia after the commission of the act.</p>
EL	Greek administrative/judicial authorities have jurisdiction to sanction Greek nationals (masters and/or owners of vessels) when they are engaged in fishing activities on board vessels registered in both third countries and Greece, including when operating on the high seas or in third countries' waters.
ES	<p>There is no limit to the jurisdiction of the administrative authorities for nationals carrying out IUU fishing activities. In particular, action can be taken against them for offences committed in the Spanish territory and maritime waters, outside the Spanish territory and maritime waters (by Spanish vessels; by stateless vessels; by vessels from other countries, if they have not been previously punished by their own country), and for any other IUU offence detected in the Spanish territory and maritime waters under Spanish jurisdiction or sovereignty.</p> <p>In the case of an IUU action committed outside the Spanish maritime waters by a non-Spanish vessel, a distinction must be made: 1) If the third-country vessel is included in a IUU fishing list, participating in its exploitation, managing or owning the vessel, is forbidden, as well as any kind of trade with it. In these cases, according to a number of rulings by the Spanish Courts, the Spanish authorities can sanction their nationals directly, without checking with the authorities of the vessel's country if they have been already punished, regardless of where the vessel fishes or even if it is actually fishing; 2) If the third-country fishing vessel committing IUU is not included in any IUU fishing list, preferential jurisdiction is attributed to the State under whose flag the vessel is flying. For doing so, a specific procedure is in place for consultations with the flag State. If the vessel has not been punished in its flag State, the Spanish authorities can sanction the offence.</p> <p>A particular jurisdictional approach shall be adopted for those nationals that transhipped or participated in joint fishing operations with vessels included in a IUU list, as well as supporting or refuelling those vessels. It is always forbidden, within or outside the Spanish waters or territory.</p>
FI	The national legislation covers nationals, both natural and legal persons, regardless of where the actual activities have taken place. The National Monitoring Act includes a specific provision on the scope and geographic application of the Act in § 2. The Act applies to Finnish nationals, Finnish registered legal persons and to registered fishing vessels and their crew regardless of their location or where the activities take place.
FR	<p>Only legally possible for French nationals onboard vessels flying the French flag. Until now, no legal provision allows the French authorities to control a French national engaged in IUU fishing on a vessel flying a foreign flag outside EU waters.</p> <p>French authorities are competent to inspect ships flying the French flag, wherever they can be found. However, they do not have jurisdiction to inspect ships flying the flag of a third country, even if French nationals are operating onboard. It is considered by French authorities that this responsibility lies with the flag state.</p>

MS	Rules on jurisdiction
HR	Criminal and administrative sanctions apply in all cases where nationals are engaged in IUU fishing.
HU	Act C of 2012 on the Criminal Code, Section 246 makes IUU fishing punishable. Under Section 3, the scope of the Criminal Code also includes Hungarian nationals committing offences abroad .
IE	The administrative/judicial authorities have jurisdiction in respect of any alleged offences within the territorial seas, internal waters and the exclusive economic zone. There is no distinction in national law between nationals or persons from other Member States or third countries . With regard to enforcement against offences on foreign ships, based on Sections 10 and 11 of the Amended Fisheries Act of 2021, there is no prohibition or restriction on taking action against a national engaged in IUU fishing activities.
IT	The national system allows the competent authorities to apply coercive and sanctioning measures to any Italian citizen on board any fishing vessel (whether flying the Italian flag or not) that engages in fishing activities in violation of the IUU Regulation. However, difficulties may arise in cases where an Italian citizen on board a vessel engaged in illegal fishing is not properly a seafarer. In such cases, problems may arise as to the competence of the control authorities to act. The application of the sanction, for activities abroad, is delegated to the Port Authority of registration of the seafarer; if the person concerned is not a seafarer, it might be problematic to understand which of the Maritime Authorities should hypothetically intervene. However, this hypothesis is very limited in its scope of applicability, as Legislative Decree No. 4/2012 also covers commercial activities.
LT	Jurisdiction regarding nationals does not extend outside the territorial waters of Lithuania and/or on board vessels registered in Lithuania .
LV	National authorities have full jurisdiction to impose administrative sanctions on any national (masters and/or crew members, as well as owners and/or operators of vessels) engaged in IUU fishing activities onboard vessels registered in third countries , including when operating on the high seas or in third countries' waters.
MT	Malta's authorities have full jurisdiction to prosecute any national engaged in IUU fishing since the Order states that 'any person' violating the IUU Regulation as is referred in the Schedule 'shall be guilty of an offence against the Act' (Regulation 4(1)). However, Maltese general criminal law principles dictate that legal persons cannot be convicted for criminal deeds . In fact, where criminal proceedings are initiated, the Police must issue charges against the owner or charterer of the vessel, or licence holder, or even 'any person' as natural persons, but in their vestments as representative of a company. With regard to engagement or support of IUU fishing by nationals when such vessels are active outside the Community, the action may also be possible through Article 5(1)(i) of the Criminal Code, which provides that the Court of Magistrates would have jurisdiction to try cases against 'any person who commits an offence which, by express provision of the law, constitutes an offence even when committed outside Malta'.
NL	Nationals can be sanctioned if they are engaged in IUU fisheries if the violation of the IUU Regulation is a crime and not an offence. Two conditions must be met for an IUU violation to be a crime: The IUU provision is a serious infringement (Article 1a(1 ^o) of the Law on Economic Delicts). The violation is committed intentionally (Article 2(1) of the Law on Economic Delicts). For the Dutch authorities to be able to prosecute such an act committed outside Dutch territorial jurisdiction, it is also necessary that the act is also considered a violation in the flag state (Article 7(1) of the Penal Code).
PL	The Polish authorities have jurisdiction to sanction any master, owner and/ or operator of vessels flying the Polish flag , fishing in the Polish waters or outside Polish waters. They also have jurisdiction to sanction any vessel, irrespective of the flag, located in Polish waters .

MS	Rules on jurisdiction
	<p>As stipulated in Article 1(2) points 1-3 of the Polish Act on Sea Fisheries, provisions of this act pertain to owners, operators and captains of fishing vessels of Polish origin, carrying out sea fishing activities in the maritime areas of the Republic of Poland or outside these areas; owners and captains of foreign fishing vessels engaging in commercial fishing in the exclusive economic zone and captains of foreign fishing vessels bringing fresh or processed marine organisms into the sea areas of the Republic of Poland.</p> <p>Article 104(1-2) of the Polish Act on Sea Fisheries sets out the territorial scope of operation of the Polish sea fisheries administration. The provision states that it covers, as a rule, the Polish territory (including territorial sea) along with the Polish exclusive economic zone but also covers the area outside of these areas as defined by laws, international contracts and agreements and the EU regulations related to sea fishing (in principle Polish administration can initiate administrative proceedings aiming at imposing a fine on a Polish national for breaches committed outside of the Polish territory).</p> <p>As a result, Polish legal entities which do not fall within the scope of definition of “owners” or “operators” of fishing vessels remain out of jurisdiction of Polish administrative authorities (financial services, HR companies). Same rule applies for natural persons which do not act as a captain, owner or operator of a fishing vessel.</p>
PT	<p>The provisions laid down in the IUU Regulation are within the scope of the Portuguese Decree-law n° 35/2019, which is applicable to natural persons or national collectives engaged in fishing activities - in the national territory, and - in all maritime waters, including high seas. This decree-law is also applicable to natural or legal persons from other Member States, from third countries or stateless persons operating in the national territory and national waters.</p>
RO	<p>Romanian criminal law applies to crimes committed outside the country by a Romanian citizen or a Romanian legal person, if the punishment provided by Romanian law is life imprisonment or imprisonment for more than 10 years, or if the deed is provided as a crime also by the criminal law of the country where it was committed or if it was committed in a place that is not subject to the jurisdiction of any state.</p>
SE	<p>Swedish courts have jurisdiction to adjudicate crimes committed by Swedish nationals engaged in IUU fishing activities on board third country vessels on the high seas or in third country waters under the following circumstances:</p> <ul style="list-style-type: none"> - over crimes committed outside the territory of Sweden by masters and other crew members if they are Swedish citizens or were residents of Sweden at the time of the crime or at the time of the commencement of prosecution (filing the prosecution at court). - over natural persons (owners/operators) who are contributing to a crime if the natural person (owner/operator) is on Swedish territory while contributing to the act in question. <p>Jurisdiction based on citizenship or residence can only be applied if the crime is punishable according to the law where the crime has been committed. Normally, if a crime has been committed in an area which does not belong to any state, Swedish courts have jurisdiction only if the crime is punishable by prison sentence according to Swedish Law. (This requirement does not apply when the crime has been committed on a Swedish flagged vessel.)</p> <p>For administrative legal processes, there are no expressly regulated limits of jurisdiction. Jurisdiction to decide administrative sanctions can be wider than the criminal process jurisdiction. Court practice will eventually show where the limits are. The prescriptive jurisdiction is the basic limits for this jurisdiction. There are automatic limits that are derived from the types of infringements which the rule in question applies to – infringements of the rules on obligations to notify or inform can only be committed by specific subjects, such as certain masters, fishing license holders etc.</p>
SI	<p>The Inspectorate for Agriculture, Forestry, Hunting and Fisheries, the Police and the Maritime Inspectorate have the jurisdiction to impose administrative sanctions for offences, which have occurred on Slovenian territory (which includes the maritime territory under Slovenian jurisdiction). They also can impose sanctions for offences committed outside of Slovenian national borders</p>

MS	Rules on jurisdiction
	<p>on vessels registered in Slovenia. However, these administrative authorities are not authorised to impose administrative sanctions to Slovenian nationals who have committed administrative offences outside Slovenian territory or on foreign vessels outside of Slovenian maritime territory.</p> <p>The jurisdiction of judicial authorities for prosecution of criminal offences is broader: they can prosecute criminal offences and impose criminal sanctions on Slovenian nationals irrespective if their criminal offences were committed in the Slovenian territory, or elsewhere.</p>
SK	<p>Provided that Slovakia does not have a direct sea access and no fishing vessels flying Slovakian flag, nor Slovakian operators, the question of jurisdiction was not deemed applicable by national authorities.</p>

2.3.1.2 Jurisdiction to sanction nationals supporting IUU fishing activities which occurred on board vessels registered in third countries

Table 7 provides information as to the rules on jurisdiction to sanction nationals supporting IUU fishing activities which occurred on board vessels registered in third countries, including when operating on the high seas or in third countries' waters, in each of the following situations:

- Masters and/or crew members, who are nationals of the Member States, operating on vessels registered in third countries with known links to IUU fishing activities;
- Owners and/or operators of vessels registered in third countries with known links to IUU fishing activities, who are nationals of the Member States;
- Owners of processing plants in third countries supporting/providing services to IUU listed vessel, who are nationals of the Member States;
- Nationals of the Member States, based in the EU, managing third country registers and supporting IUU fishing activities;
- National insurance and financial service providers to IUU listed vessels;
- HR companies (recruiting companies) based in the Member States providing services that support IUU fishing activities;
- Third country supply vessels owned/controlled by nationals of the Member States supporting/providing services to IUU listed vessel;
- Other situations involving nationals of the Member States supporting IUU fishing activities which occurred on board vessels registered in third countries, including when operating on the high seas or in third countries' waters.

Table 7 Rules on jurisdiction for nationals supporting IUU fishing activities

MS	Masters and/or crew members	Owners and/or operators	Owners of processing plants in third countries	Managing third country registers	Insurance and financial service providers to IUU listed vessels	HR companies providing services that support IUU fishing activities	Third country supply vessels owned/controlled by nationals	Rules/ Comments
AT	✓	✓	✓	✓	✓	✓	✓	Same as for nationals engaged in IUU fishing activities (only in Austria).
BE	✓	✓		✓				Same as for nationals engaged in IUU fishing activities (mainly masters and licence holders).
BG	✓	✓	✓	✓	✓	✓	✓	Same as for nationals engaged in IUU fishing activities (all Bulgarian citizens incl. outside national territory).
CY	✓	✓	✓	✓	✓	✓	✓	Sanctions are provided by law.
CZ								Same as for nationals engaged in IUU fishing activities (considered N/A).
DE	✓	✓	✓	✓	✓	✓	✓	Same as for nationals engaged in IUU fishing activities (criminal sanction for sea poaching).
DK	✓	✓	✓	✓	✓	✓	✓	Same as for nationals engaged in IUU fishing activities (any national).
EE	✓	✓	✓	✓	✓	✓	✓	Assistance to vessels, tranship fish from vessels at sea or participate in joint fishing activities with vessels entered in the EU list of vessels engaged in IUU fishing. No data about Estonian owners of processing plants in third countries. According to national authorities, no HR companies in Estonia provide special service related to IUU.
EL								Only masters and/or owners engaged in IUU fishing.

ES	✓	✓	✓	✓	✓	✓	✓	Same as for nationals engaged in IUU fishing activities (all Spanish citizens incl. outside national territory/ regardless of the vessel's flag).
FI	✓	✓	✓	✓	✓	✓	✓	Conduct of business directly connected to IUU fishing, including the trade in/or the importation of fishery products.
FR	✓	✓					✓	Same as for nationals engaged in IUU fishing activities (only French nationals onboard French vessels).
HR	✓	✓	✓	✓	✓	✓	✓	National law does not distinguish jurisdiction for nationals 'engaged' in IUU from the nationals 'supporting' IUU activities. But this is done in practice.
HU								Sanctions only against nationals engaging in IUU fishing. Hungary has no information on nationals owning/operating fishing vessels flagged to third countries. Criminal liability of abettors and aiders (accomplices) is provided by law.
IE	✓	✓	✓	✓	✓	✓	✓	According to national law, enforcement authorities may sanction any person on board a vessel who has committed an offence under a relevant provision, as well as any person engaged in buying, handling, weighing, trans-shipping, transporting, landing, processing , storing, documenting or selling fish within the State or the exclusive fishery limits. National law also provides for the possibility to sanction any company who committed an infraction to the Sea Fisheries Act.
IT	✓	✓	✓	✓	✓	✓	✓	Sanctions are provided mainly for transshipment or participation in joint fishing operations, requiring a physical presence. The Italian owner of a fishing vessel flying the flag of a non-EU state might not be on board and such conduct could not be attributed to him. Similarly, his conduct might not be classifiable as ' performance of assistance ', which is normally appropriate for purely administrative and logistical operations carried out by companies not necessarily linked to the shipowner himself. If the shipowner markets the product of IUU fishing, he is liable to penalties.

LT		✓	✓				✓	Same as for nationals engaged in IUU fishing activities (nationals on the national territory or onboard vessels flying the Lithuanian flag).
LV	✓	✓	✓	✓				Same as for nationals engaged in IUU fishing activities (masters and/or crew members, as well as owners and/or operators of vessels onboard vessels registered in third countries).
MT	✓	✓	✓	✓	✓	✓	✓	Full jurisdiction to prosecute any national (be it a legal or natural person) violating the IUU Regulation.
NL	✓	✓	✓	✓	✓	✓	✓	Same as for nationals engaged in IUU fishing activities (if crime , ie serious infringement committed intentionally). However, since the five last categories are not explicitly mentioned in Articles 39 and 40, the authorities considered they would only be liable as complicit to the violation of the IUU Regulation otherwise observed and committed the infraction intentionally.
PL	✓	✓					✓	Same as for nationals engaged in IUU fishing activities (masters/owner and /or operator of vessels flying the Polish flag or vessel registered in third country located in Polish waters).
PT	✓	✓					✓	Same as for nationals engaged in IUU fishing activities (natural and legal persons in all maritime waters).
RO	✓	✓	✓	✓	✓	✓	✓	Same as for nationals engaged in IUU fishing activities (only for criminal offences investigated by national enforcement authorities (police, prosecution, Courts, Advanced National Aquaculture and Fisheries (ANAF)service and Labour Ministry)).
SE	✓	✓	✓	✓	✓	✓	✓	Same as for nationals engaged in IUU fishing activities (nationals supporting IUU activities on board third country vessels on high seas or third country waters).
SI	✓	✓	✓	✓	✓	✓	✓	Administrative sanctions only for the support of IUU committed on the Slovenian territory or on vessels flying Slovenian flag . Criminal sanctions for Slovenian nationals for support of IUU without respect to the actual place where the criminal offence was committed .

SK								The implementation did not take place and no legal instruments are in place or planned in the near future to reflect requirements set by the IUU Regulation regarding nationals.
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2.3.1.3 Difficulties in relation to jurisdiction

Table 8 reflects the difficulties experienced or observed by the national authorities regarding the current rules on jurisdiction applicable in their Member States and/or their practical implementation.

Table 8 Difficulties experienced

MS	Difficulties experienced
EL	Due to the deficiencies in the national legal framework, there is no jurisdiction for the Greek authorities to enforce sanctions on nationals engaged in fishing on vessels registered in third countries or in companies under third country law.
ES	It is not possible to extend the effects of a penalty imposed on a Spanish national to another State, not even within the EU. For instance, it is difficult to apply outside Spain a disqualification to fish to a Spanish national fishing operator as a result of a penalty. Thus, the operator might pursue its fishing activity in another country. Or vice versa, a Spanish national might not respect the punishment imposed abroad and continues its activity in Spain, even though this is contrary to an imposed punishment. It has been already discussed with the EU Commission that it is necessary a coordination tool on this issue. The current communication between States is partial and inefficient.
FI	<p>It was noted in the interview that Finland is a relatively small country in terms of commercial high-seas fishing, with access only to the Baltic Sea. Therefore, some of the questions and issues concerning IUU fishing are or at least appear to be less relevant.</p> <p>It was pointed out by the authorities that there is no possibility to know or monitor the nationals of Finland engaging or supporting IUU activities once they are outside the jurisdiction of Finland and geographically outside the territory of Finland. The practical circumstances do not provide for measures to be actively aware what nationals are doing around the world.</p> <p>However, no practical implementation problems were identified. These problems are more reflected as administrative struggles.</p>
LT	National fisheries authorities do not have jurisdiction to apply administrative measures for boats not registered as fishing vessels, even in cases where fishing gear is present in the vessel, but the vessel is issued by another Member State a temporary licence of recreational boat. There is a theoretical possibility that Lithuanian Transport Safety Agency might have competence in such circumstances, however representatives of Fisheries Service were not able to confirm that theory.
LV	Problem to identify the Latvian nationals working on third country vessels: fishermen are required by law to inform the competent authority, but there is no verification mechanism that would allow to ensure implementation of the law. There is a register of seafarers - but there is practically no information about whether the seafarer works on a third country fishing vessel.
MT	<p>A main difficulty with regard to jurisdiction lies in the fact that criminal law in Malta does not allow for the conviction and sanctioning of legal persons. This fact is relevant to note since in the majority of fisheries IUU cases prosecution will proceed through the judicial route.</p> <p>Where enforcement jurisdiction may be taken by the Department of Fisheries and Aquaculture in the form of administrative sanctioning, the lack of a procedural system to cover scenarios encompassed in Articles 39 and 40 pose a difficulty even if legal persons may be proceeded against.</p> <p>Nevertheless, the Department of Fisheries and Aquaculture informed that in practice the Department has a very strong cooperative relationship with the Police, passing on information and activities which it has the power to investigate in accordance with the remits of the Act and its subsidiary legislation. Once such information and/or activities are flagged to the Police it is then up to the Police to proceed with its findings and prosecution if it deems necessary.</p> <p>This difficulty remains despite the wide berth provided under Article 5(1)(i) of the Criminal Code (as referred above), since IUU infringement detection and investigations are carried out by the</p>

MS	Difficulties experienced
	<p>Department of Fisheries and Aquaculture prior to being passing on to the police for prosecution before the Court of Magistrates.</p> <p>Nevertheless, it is possible that cases are initiated on the basis of Article 5(1)(i) of the Criminal Code when information from the Police of other MSs is communicated to Malta. In such cases the relevant Unit is the International Relations Unit (Interpol Office known internationally as the National Central Bureau (NCB), the Europol National Unit and the SIRENE Office). The International Relations Unit acquires information with information on developments in environmental crime.</p>

2.3.1.4 Sanctions applicable for nationals engaged or supporting IUU fishing

Table 9 presents the sanctions reported as applicable to nationals engaged or supporting IUU fishing, as well as nationals selling or exporting fishing vessels to operators involved in IUU activities.

Sanctions are in place for nationals engaged or supporting IUU fishing activities in all Member States but Slovakia. However, **these sanctions apply only within the limits of jurisdiction presented in the previous sections.** Sanctions are **administrative** in most Member States. **Criminal** sanctions are also provided in Bulgaria, the Czech Republic, Estonia, France, Germany, Italy, Latvia, Malta, Romania or exclusively in Cyprus, Hungary, Ireland, the Netherlands and Sweden. Where administrative sanctions are in place, they mainly consist in fines, with complementary sanctions such as seizure or forfeiture of products or withdrawal of fishing licence. Criminal sanctions consist in most cases of imprisonment and/or a fine.

Sanctions for nationals selling or exporting fishing vessels to operators involved in IUU fishing are scarcer. Such sanctions are not provided in half of the Member States (13)⁸³. Where sanctions are provided, they are general sanctions not expressly mentioning the said infraction.

Table 9 Applicable sanctions

MS	Sanctions applicable for nationals engaged or supporting IUU fishing	Sanctions in place for nationals selling or exporting fishing vessels to operators involved in IUU fishing
AT	<ul style="list-style-type: none"> ■ Administrative sanction: <ul style="list-style-type: none"> ■ Fine of up to EUR 36 340 ■ Fine of up to EUR 3 630 in case of breach of cooperation obligations ■ Acts committed outside Austrian territory are not subject to administrative sanctions (§ 2 VStG). 	<ul style="list-style-type: none"> ■ Administrative sanction: <ul style="list-style-type: none"> ■ Fine of up to EUR 36 340 ■ Acts committed outside Austrian territory are not subject to administrative sanctions (§ 2 VStG).
BE	<ul style="list-style-type: none"> ■ Administrative sanction: <ul style="list-style-type: none"> ■ Seizure of all fishery products, fishing gear and other means of production. ■ Suspension of the fishing licence in case of non-compliance with the fishing licence ■ Allocation of points and resulting prohibition to exercise as captain as a consequence ■ Decrease of fishing quota/rights or of number of fishing days in a certain area ■ Prohibition of fishing in a certain area 	<ul style="list-style-type: none"> ■ No sanctions in place (Flanders). The issue has been addressed to the federal level.

⁸³ BE, BG, EE, EL, HU, IE, IT, LT, PL, PT, RO, SE and SK.

MS	Sanctions applicable for nationals engaged or supporting IUU fishing	Sanctions in place for nationals selling or exporting fishing vessels to operators involved in IUU fishing
	<ul style="list-style-type: none"> ■ Fishing vessel can be chained. 	
BG	<ul style="list-style-type: none"> ■ Administrative sanction: <ul style="list-style-type: none"> ■ Prohibition on fishing ■ Fine (for natural or legal person) ■ Confiscation of all fishery products, fishing gear and other means of production ■ Compensation in case of damage to the fishing resources ■ Allocation of points ■ Withdrawal of the fishing permit in the cases envisaged in the IUU Regulation and upon reaching or exceeding a determined number of penalty points. ■ Criminal sanction: <ul style="list-style-type: none"> ■ Deprivation of liberty ■ Monetary sanction ■ Probation ■ Confiscation of all fishery products, fishing gear and other means of production. 	<ul style="list-style-type: none"> ■ No sanctions in place.
CY	<ul style="list-style-type: none"> ■ Criminal sanction: <ul style="list-style-type: none"> ■ Imprisonment of up to 1 year; and/or ■ Fine of up to EUR 8 543 	<ul style="list-style-type: none"> ■ Criminal sanction: <ul style="list-style-type: none"> ■ Imprisonment of up to 1 year; and/or ■ Fine of up to EUR 8 543
CZ	<ul style="list-style-type: none"> ■ Administrative sanction: <ul style="list-style-type: none"> ■ Fine of up to CZK 100 000 (EUR 4 090). ■ Criminal sanction (for natural and/or legal person involved (i.e. engaged or supporting) in IUU fishing beyond material value of CZK 10 000 (EUR 409)): <ul style="list-style-type: none"> ■ Imprisonment for up to 5 years ■ Financial penalty ■ Prohibition of an activity ■ Confiscation. 	<ul style="list-style-type: none"> ■ Criminal sanction (for natural and/or legal person involved (i.e. engaged or supporting) in IUU fishing beyond material value of CZK 10 000 (EUR 409)): <ul style="list-style-type: none"> ■ Imprisonment for up to 5 years ■ Financial penalty ■ Prohibition of an activity ■ Confiscation.
DE	<ul style="list-style-type: none"> ■ Administrative sanction: <ul style="list-style-type: none"> ■ Fine of up to EUR 100 000 (up to EUR 50 000 for some offences) ■ Allocation of points ■ Criminal sanction: <ul style="list-style-type: none"> ■ Fine ■ Imprisonment of up to 1 year (2 years for poaching) 	Idem as for sanctions applicable to national engaged or supporting IUU fishing.
DK	<ul style="list-style-type: none"> ■ Under Fisheries Act: <ul style="list-style-type: none"> ■ Fine ■ Imprisonment ■ Seizure of catch and/or gear ■ Withdrawal of fishing license and/or authorisation ■ Retention 	Idem as for sanctions applicable to national engaged or supporting IUU fishing.

MS	Sanctions applicable for nationals engaged or supporting IUU fishing	Sanctions in place for nationals selling or exporting fishing vessels to operators involved in IUU fishing
	<ul style="list-style-type: none"> ■ Under the Executive Order regarding point system <ul style="list-style-type: none"> ■ Allocation of points 	
EE	<ul style="list-style-type: none"> ■ Administrative sanction: <ul style="list-style-type: none"> ■ Fine of up to EUR 1200 for natural persons (up to EUR 32 000 for legal persons). ■ Allocation of points ■ Criminal sanction: <ul style="list-style-type: none"> ■ Misdemeanour (applied only in exceptional cases (e.g. listed vessels)): Fine ■ Crime (e.g. poaching): Imprisonment of up to 3 years Fine: 30 to 500 daily rates of minimum EUR 10 (EUR 4 000 to 16 000 000 for legal persons) <p>Administrative and criminal sanctions are applied to the ship and the master not to the ordinary crew members except in case of recreational craft where the fisherman also is responsible. Civil claim for damages to fish stocks if the infringement resulted in damages to fish or aquatic plant resources.</p>	<ul style="list-style-type: none"> ■ No sanctions in place.
EL	<ul style="list-style-type: none"> ■ Administrative sanctions ■ Allocation of points 	<ul style="list-style-type: none"> ■ No sanctions in place.
ES	<ul style="list-style-type: none"> ■ Administrative sanction: <ul style="list-style-type: none"> ■ Fines (the financial penalty ranges from EUR 60 001 to EUR 600 000). ■ Disqualification for fishing activities. ■ Permit or authorisation suspension, withdrawal or non-renewal. ■ Ban on access to public assistance or subsidies. ■ Suspension or withdrawal of the status of approved economic operator. ■ Reduction or withdrawal of fishing rights or the right to obtain new fishing rights. 	Idem as for sanctions applicable to national engaged or supporting IUU fishing.
FI	<ul style="list-style-type: none"> ■ Administrative sanction: <ul style="list-style-type: none"> ■ Fine between EUR 2 000 and EUR 100 000 or the value of the products according to the EU-rules if the products are more valuable. 	Idem as for sanctions applicable to national engaged or supporting IUU fishing.
FR	<ul style="list-style-type: none"> ■ Administrative sanction: <ul style="list-style-type: none"> ■ Allocation of point ■ Criminal sanction: <ul style="list-style-type: none"> ■ Fine (up to EUR 22 500 for engaging in/supporting IUU fishing) ■ Fine of up to EUR 75 000 and imprisonment of 1 year (operate listed vessel) ■ Fine of up to EUR 1 500 (confiscation, suspension of the permit for natural persons). 	<ul style="list-style-type: none"> ■ Not expressly provided but would seem to fall under Art L945-2, II of the Rural Code <ul style="list-style-type: none"> ■ Fine (up to EUR 22 500 for engaging in/supporting IUU fishing)

MS	Sanctions applicable for nationals engaged or supporting IUU fishing	Sanctions in place for nationals selling or exporting fishing vessels to operators involved in IUU fishing
HR	<ul style="list-style-type: none"> ■ Administrative sanction (misdemeanours): <ul style="list-style-type: none"> ■ Legal persons: fine of EUR 400 to 6 500 ■ Natural persons: fine of EUR 250 to 4 000 	<ul style="list-style-type: none"> ■ Administrative sanction (misdemeanours): <ul style="list-style-type: none"> ■ Fine of EUR 2500 to 6 500 EUR for legal persons ■ Fine of EUR 650 to 5 500 for the responsible person in the legal entity and the responsible person in conducting commercial fishing ■ Fine of EUR 650 to 4 000 for a natural person
HU	<ul style="list-style-type: none"> ■ Criminal sanction: <ul style="list-style-type: none"> ■ Imprisonment of up to 2 years (natural persons). ■ Dissolution, the limitation of its activities, and/or a fine (legal person). 	<ul style="list-style-type: none"> ■ No sanctions in place.
IE	<ul style="list-style-type: none"> ■ Criminal sanction: <ul style="list-style-type: none"> ■ Fine of up to EUR 100,000 ■ (in addition to the fine) forfeiture of all or any fish and fishing gear related to the offence ■ (in addition to fine and forfeiture) revocation or suspension of the sea-fishing boat licence 	<ul style="list-style-type: none"> ■ No sanctions in place.
IT	<ul style="list-style-type: none"> ■ Criminal sanction: <ul style="list-style-type: none"> ■ Fine of up to EUR 1 000 to 12 000 ■ Imprisonment from 1 month to 2 years, which vary from arrest from two months to two years or a fine ■ Confiscation of the fish and gear, the obligation to restore the state of the place and the suspension of the commercial activity from 5 to 10 days. ■ Administrative sanction: <ul style="list-style-type: none"> ■ Fine of up to EUR 150 000 ■ Suspension of the licence for up to 6 months, up to revocation in case of recidivism 	<ul style="list-style-type: none"> ■ No sanctions in place.
LT	<ul style="list-style-type: none"> ■ Administrative sanction: <ul style="list-style-type: none"> ■ Fine from EUR 500 to 2600 (imposed on the captain) ■ Fine based on the value of illegally fished products from double to 8th fold value. ■ Compensation for damages to fisheries resources caused by illegal activities. 	<ul style="list-style-type: none"> ■ No sanctions in place.
LV	<ul style="list-style-type: none"> ■ Administrative sanction: <ul style="list-style-type: none"> ■ Fine (natural persons) from EUR 30 to 700 ■ Fine (legal persons) from EUR 140 to 14 000 ■ Prohibition to exercise fishing rights for a time period of up to 2 years. <p>The upper limits of financial fine can be exceeded if the need for a larger fine has been determined in international law binding on</p>	<ul style="list-style-type: none"> ■ Administrative sanction: <ul style="list-style-type: none"> ■ Fine (natural persons) from EUR 30 to 700 ■ Fine (legal persons) from EUR 140 to 14 000 ■ Prohibition to exercise fishing rights for a time period of up to 2 years.

MS	Sanctions applicable for nationals engaged or supporting IUU fishing	Sanctions in place for nationals selling or exporting fishing vessels to operators involved in IUU fishing
	<p>the Republic of Latvia. This provision is effectively used in practice, also in relation to violations of fishing regulations.</p> <ul style="list-style-type: none"> ■ Criminal sanction: <ul style="list-style-type: none"> ■ Imprisonment of up to 3 years ■ For ‘criminal violation’: 1 to 100 minimum wages (currently EUR 430), i.e. EUR 430 to 43,000; ■ For ‘less serious crime’, 3 to 1,000 minimum wages, i.e. EUR 1,290 to EUR 430,000. 	
MT	<ul style="list-style-type: none"> ■ Administrative sanction: <ul style="list-style-type: none"> ■ Fine from EUR 50 to EUR 1,000 in the case of a ‘minor’ offence. ■ Criminal sanction: <ul style="list-style-type: none"> ■ Fine of five times the value of the fishery products obtained for serious infringement ■ Fine of EUR 1,000 to EUR 10,000 for serious infringement if no fishery products obtained. 	Idem as for sanctions applicable to national engaged or supporting IUU fishing.
NL	<ul style="list-style-type: none"> ■ Criminal sanction: <ul style="list-style-type: none"> ■ (intentionally-crime): <p>Imprisonment of up to 6 years community service of maximum of 240 hours or Fine of up to EUR 90 000 (up to EUR 900 000 if the revenues of the act committed are higher than EUR 22 500).</p> ■ (without intent- offence): <p>Imprisonment of up to 1 year community service of up to 240 hours, or Fine up to EUR 22 500 (up to EUR 90 000 if the revenues of the act committed are higher than EUR 5 625).</p> 	<ul style="list-style-type: none"> ■ Offence. (without intent): <ul style="list-style-type: none"> ■ Imprisonment of up to 1 year Community service of up to 240 hours, or ■ Fine up to EUR 22 500 (up to EUR 90 000 if the revenues of the act committed are higher than EUR 5 625).
PL	<ul style="list-style-type: none"> ■ Administrative sanction: <ul style="list-style-type: none"> ■ Serious infringements: a fine of five times the value of fishery products. 	■ No sanctions in place.
PT	<ul style="list-style-type: none"> ■ Fines and accompanying sanctions established in the Decree-law n° 35/2019 	■ No sanctions in place.
RO	<ul style="list-style-type: none"> ■ Administrative sanctions are not implemented⁸⁴. ■ Criminal sanction: <ul style="list-style-type: none"> ■ Offences committed by nationals on a Romanian vessel: <p>Fine and prohibition of the right to fish for a period of 1 to 3 years: Imprisonment from 6 months to 3 years and a ban on the right to fish for a period of 1 to 3 years</p> ■ Crimes committed outside the Romanian territory 	■ No sanctions in place.

⁸⁴ The national authorities consider modifying the law of fisheries in this regard according to legal competences of administrative authorities.

MS	Sanctions applicable for nationals engaged or supporting IUU fishing	Sanctions in place for nationals selling or exporting fishing vessels to operators involved in IUU fishing
	<p>(including on a vessel registered in a third country), could be subject to the Romanian law, if:</p> <p>The punishment provided by the Romanian law is life-time imprisonment, or imprisonment higher than 10 years (which is not the case for fishery sanctions);</p> <p>The crime is also regulated in the legislation of the country where they committed the crime or if it was committed in a territory that is not subject to any jurisdiction.</p>	
SE	<ul style="list-style-type: none"> ■ Criminal sanction: <ul style="list-style-type: none"> ■ Fine calculated on the power of the engine (amount in SEK 10-500 times the number of kilowatts in the engines, minimum 1 000 SEK (app. EUR 100). ■ Imprisonment of up to 1 year (2 years for serious crime). ■ Seizure and forfeiture of fishing gear and winnings, and damages and corporate fines can also be decided. <p>For crimes committed in Sweden's Exclusive Economic Zone the only applicable punishment is fines, not prison.</p>	<ul style="list-style-type: none"> ■ No sanctions in place.
SI	<ul style="list-style-type: none"> ■ Administrative sanction: <ul style="list-style-type: none"> ■ Fine from EUR 1 200 to 41 000 for legal person, ■ Fine from EUR 420 to 33 000 for independent entrepreneurs, ■ Fine from EUR 420 to 4 100 for responsible person of a legal person, ■ Fine from EUR 420 to 1 200 for an individual. 	Idem as for sanctions applicable to national engaged or supporting IUU fishing.
SK	<ul style="list-style-type: none"> ■ No sanctions in place. 	<ul style="list-style-type: none"> ■ No sanctions in place.

2.3.2 Enforcement authorities' powers and capacity

2.3.2.1 Authorities in charge of enforcement of the obligations applying to nationals

Table 10 provides information on the authorities in charge of enforcement of the obligations applying to nationals in each Member State. The vast majority of Member States have administrative enforcement authorities. Such authorities include departments within the competent ministries, local authorities, inspectorates, and/or coast guards. The judiciary is usually involved either once the administrative authorities have observed and/or sanctioned the infraction or for the most serious infractions.

Table 10 Authorities in charge of enforcement of the obligations applying to nationals

MS	Designation
AT	<ul style="list-style-type: none"> ■ Federal Office for Food Safety

MS	Designation
	<ul style="list-style-type: none"> ■ District administrative authority in whose district the perpetrator has his/her main place of residence.
BE	<p>At Federal level:</p> <ul style="list-style-type: none"> ■ Officers of the judicial police: ■ Mandated officers and non-commissioned officers of the Navy ■ Officials of the Customs and Excise Administration. <p>At the Flemish level:</p> <ul style="list-style-type: none"> ■ Officials and agents of the Fisheries Department of the Flemish Government. ■ The (Agriculture and) Fisheries Department of the Flemish Government. It is an administrative authority, but its action may lead to criminal procedure and sanctions (Court of First Instance of Bruges).
BG	<ul style="list-style-type: none"> ■ Executive Agency of Fisheries and Aquaculture (control over the use and conservation of fishery resources) ■ General Directorate "Border Police" (control over the use and conservation of fishery resources in maritime spaces and inland waterways in respect of foreign fishing vessels) ■ Bulgarian Food Safety Agency ■ Executive Agency "Maritime Administration" ■ District and administrative courts (in first instance for serious infringements, in appeal for administrative decisions)
CY	<ul style="list-style-type: none"> ■ Department of Fisheries and Marine Research (DFMR)
CZ	<ul style="list-style-type: none"> ■ Ministry of Agriculture; Ministerial officer in the Department of the fisheries and beekeeping (administrative sanctions) ■ Police, customs offices, prosecutors, judges (criminal sanctions)
DE	<ul style="list-style-type: none"> ■ Federal Government (Federal Agency for Agriculture and Food, BLE) (administrative sanctions) ■ Competent authorities of the coastal regions (administrative sanctions): <ul style="list-style-type: none"> - Schleswig-Holstein: State Office for Agriculture, Environment and Rural Areas of Schleswig-Holstein - Lower Saxony and Bremen: Fisheries Administration of the Länder of Lower Saxony and Bremen - Mecklenburg-Western Pomerania: State Office for Agriculture, Food Safety and Fisheries MV, ■ Public prosecutor's office, Court (criminal sanctions)
DK	<ul style="list-style-type: none"> ■ Fiskeristyrelsen (Danish Fishery Agency) and Fødevarestyrelsen (Danish Food and Veterinary Administration) (administrative and criminal sanctions- fixed penalty fines). ■ Police, prosecutors, judges (criminal sanctions).
EE	<ul style="list-style-type: none"> ■ Environmental Board (administrative and judicial) <p>NB: The Inspectorate was merged with the Environmental Board in January 2021.</p>
EL	<ul style="list-style-type: none"> ■ Hellenic Coast Guard under the Ministry of Maritime Affairs and Insular Policy (administrative sanctions) ■ Criminal Courts (criminal sanctions).

MS	Designation
ES	<ul style="list-style-type: none"> ■ General Directorate of Fisheries Management and Aquaculture (DGF), within the General Secretariat of Fisheries (SGP), under the Ministry of Agriculture, Fisheries and Food (MAPA) (administrative authorities) ■ Within the DGF, there is a Sub-directorate for surveillance of fisheries and for the fight against IUU, which has a specific department in charge of analysing, processing and managing data related to the eventual participation of Spanish nationals in IUU fishing (Centralised Unit for Intelligence on IUU fishing). In addition, the SGP is the single focal point in the framework of the IUU European regulations and the Agreement on Port State Measures (PSMA). It is informed by several international or European organisations. ■ Judicial authorities (only when another offence is added to the IUU fishing one).
FI	<p>For mainland Finland (administrative):</p> <ul style="list-style-type: none"> ■ Centre for Economic Development, Transport and the Environment , the Border Guard and the Finnish Food Authority (Ruokavirasto) ■ Inspectors in Centres for Economic Development, Transport and the Environment (ELY Centres) (regional authorities under the Ministry of Agriculture and Forestry). <p>For Åland (administrative):</p> <ul style="list-style-type: none"> ■ Provincial Government of Åland ■ local Åland environment- and health authority ■ Border Guard ■ Food Authority.
FR	<ul style="list-style-type: none"> ■ Administrators, officers of the technical and administrative body of maritime affairs. ■ Commanders, second in command or officers of French Navy vessels and commanders of military aircraft assigned to maritime surveillance as well as petty officers designated by the administrative authority ■ Civil servants assigned to services carrying out control missions in the field of maritime affairs under the authority or at the disposal of the Minister responsible for the sea ■ Customs officers. ■ Competition, consumer and fraud prevention officers. 8 ■ Environmental inspectors mentioned ■ Sworn agents of the nature reserves ■ Departmental Directorates of Territories and the Sea (DDTM) (opinion on the administrative sanction) ■ Interregional Directorate of the Sea (DIRM) (decides on the administrative sanction) ■ Tribunal de Grande Instance (TGI) or at Tribunal correctionnel (criminal sanctions) ■ District/Police Court (petty criminal offences).
HR	<ul style="list-style-type: none"> ■ Senior fisheries inspectors and fisheries inspectors ■ Authorized persons of the Ministry of Agriculture at unloading places and other places of supervision authorized by the Minister ■ Police officers of the Ministry of the Interior ■ Authorized persons of the Ministry of the Maritime Affairs, Transport and Infrastructure

MS	Designation
	<ul style="list-style-type: none"> ■ Authorized persons of the Customs Administration, the Ministry of Finance ■ Fisheries Inspection of the Maritime Affairs, Transport, and Infrastructure (strictly dedicated service for inspection, surveillance, and control in fisheries) ■ Port Authority inspectors of the Ministry in charge of safety at sea ■ Maritime Police of the Ministry of Internal Affairs ■ Coast Guard ■ State Inspectorate (in the area of trade and markets of fisheries products).
HU	<ul style="list-style-type: none"> ■ State Fish Inspection Service operated by the National Food Chain Safety Office (NEBIH) ■ National fisheries authorities: Pest County Government Office, NEBIH or the Ministry of Agriculture, depending on the topic ■ Regional (county-level) fisheries authorities: fisheries inspectors of county government offices ■ Fisheries management authority with law enforcement powers (in close cooperation with the Police Judicial (for criminal proceedings).
IE	<ul style="list-style-type: none"> ■ Sea-Fisheries Protection Authority - Administrative Body established under Chapter 5 Sea-Fisheries and Maritime Jurisdiction Act 2006 ■ Irish Navy ■ Judicial (criminal) courts.
IT	<ul style="list-style-type: none"> ■ Ministry of Transport (now Ministry of Sustainable Infrastructure and Mobility) ■ Commanders of the Port Authority ■ Civil and military personnel of the central and peripheral Maritime Authority ■ Financial Police ■ Carabinieri ■ Public Security Agents ■ Customs and Monopolies Agency ■ National health structures.
LT	<ul style="list-style-type: none"> ■ Fisheries Service (administrative). ■ Customs authorities (administrative) ■ General Prosecutor Office (judicial) ■ Courts (for fines over EUR 1 500).
LV	<ul style="list-style-type: none"> ■ State Environmental Service (administrative) ■ State Police (in cases of criminal liability)
MT	<ul style="list-style-type: none"> ■ Department of Fisheries and Aquaculture DFA ■ Fisheries Protection Officers FPOs ■ Armed Forces ■ Executive Police ■ Courts of Magistrates <p>NB: Strong communication routes exist between the FPOs and the Armed Forces of Malta which oversee and patrol the Malta EEZ.</p>

MS	Designation
NL	<ul style="list-style-type: none"> ■ Dutch Food and Consumer Product Safety Authority (NVWA) (administrative) ■ Public Prosecutor (judicial)
PL	<ul style="list-style-type: none"> ■ Main Sea Fisheries Inspector (administrative) ■ Minister of Agriculture and Rural Development (administrative) ■ Administrative Court (judicial)
PT	<ul style="list-style-type: none"> ■ Directorate-General for Natural Resources, Safety and Maritime Services (DGRM) (administrative) ■ Directorate-General for Fisheries -DRP (autonomous region of Madeira) ■ Regional Inspectorate for Fisheries -IRP (autonomous region of Azores)
RO	<ul style="list-style-type: none"> ■ Ministry of Internal Affairs ■ Ministry of Justice ■ Public prosecutor ■ Ministry of Finance ■ Labour Ministry.
SE	<ul style="list-style-type: none"> ■ Swedish Maritime Administration SwAM (HaV)(administrative) ■ Coast Guard (judicial and administrative) ■ Police (judicial) ■ Administrative Court system (judicial) ■ General Court system (judicial)
SI	<ul style="list-style-type: none"> ■ Inspectorate for Agriculture, Forestry, Hunting and Fisheries, within the Ministry of Agriculture, Forestry and Food (administrative) ■ Police (Maritime Police Unit) ■ Inspectors of the Maritime Inspection within the Slovenian Maritime Administration, under supervision of the Ministry of the Infrastructure
SK	<ul style="list-style-type: none"> ■ Veterinary inspectors at the State Veterinary and Food Administration ■ District Veterinary and Food Administration ■ Border Control Posts.

2.3.2.2 Powers of enforcement authorities

Table 11 describe the corresponding powers of the enforcement authorities, and in particular of authorities entitled to detect infractions by nationals.

Such powers are either regulated under **general** (procedural) rules applying to any type of enforcement authorities or are **tailored** to fisheries related activities. In no Member State has legislation been set up to regulate specifically the attribution of competence to enforcement authorities for the application of Articles 39 and 40 of the IUU Regulation, for instance by attributing powers to authorities enabling them to act when the national is not within the national territory and/or in the national waters.

Table 11 Powers of enforcement authorities

MS	Powers of enforcement authorities
AT	<ul style="list-style-type: none"> ■ Inspection of all operating and transport means and all related documents
BE	<ul style="list-style-type: none"> ■ Inspection of all operating and transport means and all related documents ■ Confiscation of documents or other evidence ■ Seizure ■ Written notice or official reports
BG	<ul style="list-style-type: none"> ■ Control over the observance of the fishing regime and the fishery activities in the maritime spaces, the inland waterways, the ports, the border checkpoint areas, in the border rivers /reservoirs and in the 30 km border zone of the Republic of Bulgaria; control over the observance of the fishing regime in respect of foreign fishing vessels in the sea areas of the Republic of Bulgaria ■ Control of fishing vessels, fishing and fisheries activities in the border area, in the areas of border checkpoints, ports, inland waters, the territorial sea, the adjacent zone, the continental shelf, the exclusive economic zone, the Bulgarian section of the Danube River and in the other border rivers and reservoirs. ■ Check of commercial fishing permits, registration of persons who carry out activity subject to registration under the national law; ■ Control the observation of the established regime of use of the fish resources ■ Control the fishing devices, the equipment, the auxiliary materials and the other technical means for fishing ■ Temporary arrest ■ Seizure ■ Use of special technical devices to record the infringement, the perpetrator, the witnesses and the equipment, used to commit the infringement; ■ Inspection of vessels and documents on board ■ Impose administrative sanctions. <p>During inspections of vessels in the waters of the Black Sea, the control bodies do not have the right to stop the vessels from movement when the fishing devices pulled by them are in working position. In these cases, the inspections are performed in movement by the control bodies getting on board or after the finishing of the technological operation.</p>
CY	<ul style="list-style-type: none"> ■ Inspection ■ Seizure of evidence under Cyprus jurisdiction ■ Administrative fine (director of central authority DFMR)
CZ	<ul style="list-style-type: none"> ■ Administrative/criminal sanctioning and oversight.
DE	<ul style="list-style-type: none"> ■ Controls (at sea, ashore (such as landing controls). ■ Confiscation/ Seizure ■ Search <p>In case of serious infringements:</p> <ul style="list-style-type: none"> ■ Immediate cessation of fishing activity ■ Diversion of the fishing vessel to port ■ Diversion of the transport vessel to another location for inspection purposes ■ Demand for a security deposit ■ Confiscation of (prohibited) fishing gear, catch or fishery products ■ Suspension or withdrawal of fishing authorisation ■ Reduction or withdrawal of fishing rights ■ Temporary or permanent withdrawal of the right to obtain new speciality rights.
DK	<ul style="list-style-type: none"> ■ Fine ■ Seizure of catch and/or gear ■ Withdrawal of fishing license and/or authorization ■ Retention

MS	Powers of enforcement authorities
EE ⁸⁵	<ul style="list-style-type: none"> ■ Power to investigate in the case of a suspicion of a violation of law ■ Right to issue notices, i.e. orders to act in a certain way to prevent or eliminate a violation. Other measures are warnings and substitutional performance. ■ Questioning and requesting documents ■ Summons and compelled attendance; establishment of identity; stopping of vehicle; detention of person; security check; examination of movable; ■ Entry into premises; examination of premises ■ Taking into storage of movable; selling or destruction of movable taken into storage. ■ Inspect fishing gear without the presence of the liable person, use of handcuffs and firearm ■ Observers on fishing grounds and vessels, satellite monitoring system and GPS monitoring system
EL	<ul style="list-style-type: none"> ■ Inspection and control ■ Imposing fines ■ Suspension of fishing licence and/or fishing authorisation ■ Confiscation of illegal fishing gear ■ Confiscation of illegal fishery products.
ES	<ul style="list-style-type: none"> ■ Fishing activity control (quotas, closure of fisheries, etc.) ■ Fishing activity monitoring via satellite tracking devices on vessels ■ Fishing effort schemes monitoring ■ Comprehensive control of the activities included in the scope of the Common Fisheries Policy, as well as data gathering and processing. ■ Inspection of fisheries and fishing: access to vessels, ports, warehouses or other establishments, dependencies and first sale points; require the vessel to stop and any measure needed to ensure the inspection; conduct tests, investigations or examinations; seizure and confiscation of document; request information, documents and records; stop the landing and unloading of any means of transport if there is a regulatory infringement; control Spanish vessels and vessels in Spanish waters; where appropriate, undertake provisional measures if necessary to stop the offence or ulterior or irreparable damage
FI	<ul style="list-style-type: none"> ■ Diversion of the fishing vessel to port ■ Establishment of identity ■ Request information, documents and records ■ Seizure of documents, data processing equipment, gear, catch and products ■ Suspension of fishing licence and/or fishing authorisation ■ Interception ■ Measuring engine power ■ Control in high seas
FR	<ul style="list-style-type: none"> ■ Access to vessels, ports, warehouses and first sale points ■ Require the vessel to stop and any measure needed to ensure the inspection ■ Inspect catch, products, catching gear, documents ■ Diversion of the fishing vessel to port

⁸⁵ Note that the powers of the Environmental Board only apply to the requirements of the Fisheries Act and not to directly applicable requirements of EU Regulations, which means that technically the Environmental Board should not be able to enforce the latter, at least not in the national waters. The Fishing Act § 63 (2) provides an ambiguously worded clause on inspections on waters not under Estonian jurisdiction by stipulating that: "Supervision over fulfilment of the requirements of legislation regulating fishing and conditions designated in a fishing authorisation, in waters outside the jurisdiction of the Republic of Estonia, may also be exercised by the Environmental Board pursuant to Articles 74 to 95 of Council Regulation (EC) No 1224/2009. In such a case the general and special measures arising from the Law Enforcement Act apply in so far as this is not regulated by the EU legislation or by international agreements." The Fishing Act § 65 (4) provides a further relevant exception by stipulating that: "If the master of a ship fails to allow in waters outside of the Estonian jurisdiction the coming aboard of and inspection by inspectors duly authorised on the basis of Article 80 of Council Regulation (EC) No 1224/2009, law enforcement authorities shall order the master to immediately allow the performance of such acts, except in situations where, pursuant to generally recognised international rules, procedure or practice related to maritime safety, such taking on board or inspection has to be postponed. If the master of a ship fails to comply with such order, the validity of the fishing licence of the ship is suspended."

MS	Powers of enforcement authorities
	<ul style="list-style-type: none"> ■ Request information, documents and records ■ Recording and transmission of data
HR	<ul style="list-style-type: none"> ■ Authorisation to photograph or record persons, ■ Inspection, photograph or record tools, vessels, facilities, business premises and other premises and premises, ports, products, devices, vessel equipment, means of work, vehicles, business books, registers, documents, contracts, documents and other business documentation that provides insight into the operations of legal and natural persons ■ Establishment of identity ■ Temporary confiscation of fishery products, fishing tools and equipment and other items ■ Seal catch, vessel, tools, equipment, facility and means of transport and / or container. ■ Sanction in case of infringement ■ Issue misdemeanour warrant and start the procedure against the perpetrator.
HU	<ul style="list-style-type: none"> ■ Inspect fishermen and anglers, checking their documents, in case of infraction, retaining them, as well as seizing the illegally caught fish. ■ The powers of the police include the right to investigate, search, seize or arrest.
IE	<ul style="list-style-type: none"> ■ Interception and inspection of vessels ■ Enter premises, docks, warehouses, vessels ■ Examine products, catch and gear ■ Confiscate products, catch and gear ■ Establish identity ■ Request information, documents and records ■ Examine and take documents or records or copies of, or extracts from, such documents or records relating to the common fisheries policy; ■ Take evidence, including photographic evidence or electronically recorded evidence, of anything relating to an offence under this Part which is being committed or suspected of being or having been committed.
IT	<ul style="list-style-type: none"> ■ Enter at any time vessels, floats, fishing establishments, places of storage and of sale, marketing and serving, and means of transport of fisheries products, ■ Conduct inspections ■ Confiscate licences ■ Impose fines.
LT	<ul style="list-style-type: none"> ■ Obtain any document or information related to control procedures ■ Enter any vessel for control purposes ■ Order to stop vessel ■ Make personal checks ■ Seize fish, fish products, fishing gears or fishing vessel ■ Apply fines and other type on sanctions ■ Inform Prosecutor Office about any criminal activity.
LV	<ul style="list-style-type: none"> ■ Inspect fishing vessels, fishing gear, fishery products, documents, persons ■ Request information and documents from legal and natural persons, ■ Initiate administrative violations proceedings, ■ Perform administrative detention, ■ Remove property and documents, ■ Impose fines and apply other sanctions, e.g., require compensation for damage caused to fishing resources.
MT	<ul style="list-style-type: none"> ■ Inspections ■ Seizure ■ Immobilisation of fishing vessels ■ Investigation and seizure (Executive police)
NL	<ul style="list-style-type: none"> ■ Physical inspections during the landing vessels from third countries. ■ Administrative control of landing vessels from third countries ■ Verification of landings and imported fishery products by checks of Catch certificates

MS	Powers of enforcement authorities
	<ul style="list-style-type: none"> ■ Release catch certificates ■ Perform cross checks ■ Mutual assistance to other member states ■ Administrative control of traceability.
PL	<ul style="list-style-type: none"> ■ Monitoring of fishing activities, ■ Fisheries data collecting and processing, ■ Request for explanations, ■ Refusal to enter a ship in the register, ■ Suspension / revocation of fishing licenses, special fishing permits, ■ Carrying out controls and inspections, ■ Assessing the gravity of infringements of the cap provisions, ■ Imposing a fine for infringement of regulations, ■ Awarding points for serious infringements, ■ Detention of a polish fishing vessel, ■ Detention of a foreign fishing vessel located in the maritime areas of the republic of Poland, ■ Taking over marine organisms and fishing gear, ■ Requesting a fishing vessel to be directed to the nearest port, ■ Requesting a fishing vessel to stop fishing.
PT	<ul style="list-style-type: none"> ■ Inspections ■ Adoption of enforcement measures, sanctions and accompanying sanctions, including seizure
RO	<ul style="list-style-type: none"> ■ National authorities have no responsibilities in identifying, collecting information, reporting or sanctioning violating natural or legal persons the provisions according to art. 39 and 40 of Reg. EU 1005/2008
SE	<ul style="list-style-type: none"> ■ SwAM: inspections; seizures of catch, gear, vessels; withdrawal of fisheries licences and fisheries authorisations; application of administrative fines, injunctions. ■ Coast Guard: full police and enforcement powers at sea. ■ Police: full police and enforcement powers. ■ Administrative Courts: first instance of appeals for SwAM decisions. ■ General Courts: full judicial enforcement powers such as forfeiture of fishing gear, fishing vessels, catch and winnings from crimes, sequestering of property.
SI	<ul style="list-style-type: none"> ■ Entering premises and facilities ■ Inspection and examination of documents, papers, account-books, take samples, seize objects, etc. ■ Order measures to eliminate irregularities and deficiencies within a time limit ■ Inspection of fishing vessels, fishing gear and equipment, fishing licensing and other documents, other facilities related to fishing, inspect catches ■ Seizure of assets, fishing gear, equipment and illegal catch ■ Seizure of documentation ■ Temporary prohibition to carry out fishing activity or placing fishery products on the market ■ Assignment of points to commercial fishing licence holders and to the masters of vessels
SK	<ul style="list-style-type: none"> ■ Inspections and sanctions

2.3.2.3 Size of inspectorate

Table 12 provides data regarding the number of inspectors/enforcement authorities (FTE) dedicated to this activity. In the twenty-two (22) Member States for which data was provided by the national authorities⁸⁶, such data refers to the number of inspectors or other authorities involved in fisheries control, rather than specifically involved in the control of IUU activities.

⁸⁶ Data not provided for CY, CZ, RO and SK.

Table 12 Size of inspectorate

MS	Size of inspectorate
AT	■ 4 inspectors
BE	■ 7 inspectors
BG	■ 33 inspectors dedicated to fisheries control in the Black Sea
CY	■ Data not available
CZ	■ Data not available
DE	<ul style="list-style-type: none"> ■ Federal government (Federal Agency for Agriculture and Food): Inspectors and clerks: 72 ■ Länder inspectors: 54 (inspectors with EU ID) Schleswig-Holstein: 16 <p>Lower Saxony and Bremen: There are four fish masters for inspections under Regulation (EC) No 1224/2009, as well as controls under Regulation (EC) No 1005/2008. Checks on the traceability of fishery products are carried out by an additional control officer. The traceability and labelling of fishery products in the State of Bremen is carried out by the Fish Inspector in Bremerhaven on a personal basis.</p> <p>Mecklenburg-Western Pomerania: 13 inspectors</p>
DK	■ App. 150 fisheries inspectors.
EE	■ 10 inspectors involved in inspections in high seas
EL	■ 62 local enforcement authorities of the Hellenic Coastguard with a total of 124 inspectors.
ES	■ The Fisheries surveillance and IUU fight Sub-directorate has a staff of more than 150 inspectors. 40 of them are working in the central service in Madrid and the rest are distributed in sub-regional services (22 <i>provincias</i> – sub-regions).
FI	<ul style="list-style-type: none"> ■ Mainland Finland Around 25-30 responsible for the overall inspections relating to fisheries and fishing legislation in their respective areas of operation. ■ Åland 1 inspector under the regional Government and 1 part time inspector for the local environment-and health authority. No information is available on the share of their workload on IUU sanctioning matters.
FR	■ 1342 inspectors habilitated to carry out control.
HR	<ul style="list-style-type: none"> ■ Ministry of the Agriculture: 33 inspectors, as well as 25 special control officers. ■ Ministry of Finances i.e., the Customs Administration: 30 officials (20 officials in mobile units – at sea, and 10 officials in checks of catch certificate). ■ Coast Guard: 27 officials ■ Ministry of the Interior - maritime police: 225 officials ■ Ministry of Economy and Sustainable development, (Environmental Protection Directorate): 30 rangers ■ Ministry of Maritime Affairs, Transport and Infrastructure: 23 officials
HU	■ Administrative authorities: 26 territorial inspectors 37 state fish inspectors
IE	■ 91 FTE - Sea-Fisheries Protection Officers.

MS	Size of inspectorate
IT	<ul style="list-style-type: none"> Coast guard and fisheries inspectors: about 250 inspectors (100 advanced level). They cover all fisheries control activities <p>The number is expected to increase by 50 for inspectors and by 16 for the advanced level.</p>
LT	<ul style="list-style-type: none"> 15-20 inspectors of Fisheries Service. IUU fisheries control is one of their areas of responsibility, but it is not possible to separate it from other control activities.
LV	<ul style="list-style-type: none"> There are 6 inspectors in the Fisheries Control Division of the State Environmental Service
MT	<ul style="list-style-type: none"> DFA's administrative enforcement capacity: 4 FPOs Control Unit (dedicated to IUU fishing cases): 4 officers Environmental Protection Unit (within the Police Department): 17 inspectors Liaison with Fishing Monitoring Centres within the EU waters and beyond: 12 persons operating on a 24-hour work shift.
NL	<ul style="list-style-type: none"> Specifically, for IUU-inspections the NVWA has an inspection capacity of 10 FTE Additionally, 7 FTE involved in other control tasks that relate to IUU.
PL	<ul style="list-style-type: none"> 42 inspectors and 5 administration experts involved in matters related to the enforcement of sea fisheries rules.
PT	<ul style="list-style-type: none"> 3 FTE technicians when needed, 15 fisheries inspectors who can intervene in IUU missions In the autonomous regions DRP-Madeira has 6 inspectors and IRP-Azores has 12.
RO	<ul style="list-style-type: none"> Data not available
SE	<ul style="list-style-type: none"> SwAM has 19 inspectors who perform inspection on site (landing, markets etc) and 2,5 inspectors who conduct administrative inspections (19 inspectors are also designated union inspectors). Coast Guard has 517 inspectors who can perform fisheries inspections at sea (vessel) or from the air (airplane/helicopter) and who can follow up with investigations on the land territory. They do not work full-time with fisheries inspections; no data on time is spent on fisheries inspections.
SI	<ul style="list-style-type: none"> 9 FTE inspectors on fisheries control related issues in the Inspectorate of the Republic of Slovenia for Agriculture, Forestry, Hunting and Fisheries (1 in Italy).
SK	<ul style="list-style-type: none"> Data not available

2.3.2.4 Obstacles experienced by enforcement authorities

Table 13 inventories the obstacles experienced by enforcement authorities in initiating procedures and/or sanctioning nationals engaging or supporting IUU fishing in the Member States. Obstacles were identified in nine Member States⁸⁷. Recurring issues include the difficulty to identify IUU activities which do not occur on the national territory and the administrative burden such identification would entail, and the lack of coordination with third countries authorities. Problems of internal coordination among authorities in a same Member State was also mentioned (e.g. Lithuania and Romania).

⁸⁷ CY, EE, EL, ES, IT, LT, MT, NL and RO.

Table 13 Obstacles experienced

MS	Obstacles experienced
BE	<ul style="list-style-type: none"> The Fisheries Department of the Flemish Government performs the controls as the Flemish authority, but, with regard to persons with the Belgian nationality who are domiciled in another country and fall under the scope of the IUU Regulation, they do not have the same competence as federal partners, who consequently have to be consulted. As a result, the intervention of the (federal) customs authorities is often needed. This is a problem that is characteristic to Belgium; the Fisheries Department of the Flemish Government does not have all the powers / responsibilities as laid down in Articles 39-40 IUU Regulation.
CY	<ul style="list-style-type: none"> The main difficulties faced by the national competent authorities are related to the identification of IUU activities, mainly because of the vague character of the provisions in the regulation that does not allow for clear implementation of the rules. For example, in the event of insurance provided to a vessel participating in IUU activities outside the territory of Cyprus, the identification of this incident by the competent authority is considered to be extremely difficult, almost impossible. Additionally, the administrative burden for the national competent authorities is considered exorbitant, especially taking into consideration the limited number of the Cypriot population that participates in potential IUU activities outside the territory of the country.
EE	<ul style="list-style-type: none"> Articles 39 and 40 may theoretically require extensive action but some aspects face insurmountable obstacles. It is practically impossible to identify all cases when the nationals have been engaged in IUU fishing on board of a listed vessel, let alone supported the activities of such vessels in some manner. For instance, it may require very extensive investigations to establish that the employee of a national is supporting IUU activity.
EL	<ul style="list-style-type: none"> The incompleteness of the national legal framework prevents efficient implementation by enforcement authorities. The fact that Greek authorities are not present at the place where the incident occurred represents a significant practical obstacle to the implementation of Articles 39 and 40 if the IUU Regulation. This is enhanced by the fact that challenges have been experienced in contacting and cooperating with the competent authorities of the third countries.
ES	<ul style="list-style-type: none"> The lack of collaboration from third countries related to Spanish nationals' IUU activities or linkages with foreign shipping companies is the main obstacle; namely absence of answer; answer refusal due to internal regulations or, apparently, to economic motivations have been observed. For example, to know the name of the beneficiary of a fishing vessel insurance may be useful to identify a Spanish national engaged in a IUU fishing offence. If the Spanish Government cannot access to this information due to the internal regulations of the requested State, this useful research tool becomes blinded. Sometimes, the inclusion of a country in the EU list of non-cooperative jurisdictions has encouraged the answer from this initially reticent country.
IT	<ul style="list-style-type: none"> In the case of clear, determined and recorded evidence of infringement, there are no difficulties. The problem may arise in the concrete application of the EU regulatory provisions. If the operator is faced with clear evidence of illegal fishing, he/she knows exactly what the procedures are, how to record evidence and who to proceed. Difficulties may be linked to the presumption of administrative offence requiring further investigation, since in the Italian system the investigation and notification of the offence are immediate and take place at the same time (Law 689/81).
LT	<ul style="list-style-type: none"> Various IUU fishing related issues fall under the competence of different authorities that are not directly involved in the matter (e.g., Lithuanian Transport Safety Administration, Ministry of Social Security and Labour, Lithuanian Seafarers Union). Therefore, regulation and implementation of certain IUU fishing related aspects (e.g., transfer of vessels, fishermen working in third countries) lack proper coordination. In order to address this challenge, Ministry of Agriculture is planning to convene an interinstitutional meeting in order to discuss ways for a more coordinated joint approach.

MS	Obstacles experienced
MT	<ul style="list-style-type: none"> The Control Unit within the DFA enjoys an open and reciprocal communication with other EU MS Fishing Monitoring Centres. However, obstacles are experienced when dealing with third-country authorities since standards and obligations do not work in parallel with the EU authorities and standards.
NL	<ul style="list-style-type: none"> The international character of IUU fishing makes the detection of fraud very complex. It is difficult to provide conclusive evidence for violations of IUU Regulation.
RO	<ul style="list-style-type: none"> Lack of collaboration between different competent authorities. The competences are spread between several entities that are not working together on this issue, resulting a lack of implementation of Articles 39 and 40 of the IUU Regulation. The lack of collaboration among the institutions that have attributions in the record of information, their processing and transmission to other institutions with complementary attributions, as well as the lack of constant and efficient exchange of information are some of the difficulties identified by the competent authorities. Additionally, the lack of a basis for interoperable data that can be accessed and updated by all actors involved in the process of identification, collection of information, and applying sanctions is also highlighted by the competent authority.

2.3.3 Other actions by Member States

2.3.3.1 Additional/alternative initiatives

National authorities consulted in the context of the present study were asked to indicate whether their Member States had adopted any policy initiatives, guidance documents or procedures in addition to legal measures for the identification of nationals supporting/engaging in IUU fishing.

Table 14 lists the Member States which listed the policy initiatives, guidance documents or procedures additional or alternative to legal measures for the identification of nationals supporting/engaging in IUU fishing. It indicates whether these initiatives apply to persons on board fishing vessels, operators, and/or beneficial owners.

Such activities relate in great part to **awareness raising information** for the relevant stakeholders, but also to the issuance of **guidelines and procedures** to facilitate the gathering and/or exchange of information, and **training**.

Table 14 Additional or alternative actions

MS	Additional/alternative initiatives	Scope
CY	<ul style="list-style-type: none"> Letters sent to other authorities regarding the IUU list (including updates) requesting information for any nationals related to the List 	Persons on board fishing vessels; operators; beneficial owners
	<ul style="list-style-type: none"> Request to Tax departments on information on nationals having activities in the fisheries sector 	Persons on board fishing vessels; operators; beneficial owners
	<ul style="list-style-type: none"> Informing stakeholders of the provisions of the regulation to inform in turn their members 	Persons on board fishing vessels; operators; beneficial owners
	<ul style="list-style-type: none"> Since the Department of Fisheries and Marine Research can also authorise vessels that operate in transshipments of fishing products in the Atlantic Ocean, the competent authority needs to be updated on the applicable rules at international level, especially related to areas where suspicious activities have been detected. In these cases, there is in-depth analysis of 	Persons on board fishing vessels; operators; beneficial owners

MS	Additional/alternative initiatives	Scope
	<p>the information to identify if there are any nationals participating.</p>	
	<ul style="list-style-type: none"> The Department of Fisheries and Marine Research provides information to the other authorities and the social partners regarding the provisions of the IUU Regulation and the IUU list of vessels. This way these authorities and social partners can inform their members accordingly. In addition to this, in the event they are aware of any IUU related activities, they should then inform the Department of Fisheries and Marine Research accordingly. 	Persons on board fishing vessels; operators; beneficial owners
	<ul style="list-style-type: none"> The Department of Fisheries and Marine Research carries out online research for the potential participation of Cypriot companies in fishing related activities in general, not specifically related to breaches of the rules. If such companies are identified, then the Department of Fisheries and Marine Research contacts them asking for information related to the activities, while in parallel they inform them if there is potential participation in IUU related activities. 	Operators, beneficial owners
EE	<ul style="list-style-type: none"> Guidelines for Determining Serious Violations (Directive of the Director General of the Environmental Board) 	Persons on board fishing vessels; operators
HR	<ul style="list-style-type: none"> It is possible for anyone to report the offences related to fishing or poaching on the website of the Ministry of the Agriculture, the Fisheries Administration 	Persons on board fishing vessels; operators; beneficial owners
	<ul style="list-style-type: none"> The Ministry of Agriculture marked on 5th July 2020 for the third time the International Day against Illegal, Unreported and Unregulated Fishing 	Persons on board fishing vessels; operators; beneficial owners
IT	<ul style="list-style-type: none"> Internal guidelines dictating the implementation of rules and operational strategies 	Persons on board fishing vessels; operators; beneficial owners
LT	<ul style="list-style-type: none"> Information events for stakeholders in order to fill gaps in their knowledge on rules governing IUU fishing, and to present relevant practices. Such seminars are usually organized once or twice a year. 	Persons on board fishing vessels; operators; beneficial owners
	<ul style="list-style-type: none"> Competent authorities participate in training activities organised by the EFCA, as well as in seminars on implementation of IUU fisheries regulations that are organized by the Customs with participation of other competent authorities once a year. 	Persons on board fishing vessels; operators; beneficial owners
	<ul style="list-style-type: none"> Fisheries Service invites citizens and NGOs to submit information on IUU fishing on its website (however, such information is not easy to find on the website of the Fisheries Service). 	Persons on board fishing vessels; operators; beneficial owners
LV	<ul style="list-style-type: none"> The Latvian authorities have introduced some improvements since 2020 to ensure Article 40.2. requirements of the IUU Regulation. Latvian IUU officers cooperated with the Maritime Administration of Latvia, Register of Seamen, which is responsible for Certification of Seafarers. This type of initiative allows to gather information on seafarers' engagement in fishing operations on board third country vessels. 	Persons on board fishing vessels
	<ul style="list-style-type: none"> The Ministry of Agriculture, when taking a decision regarding the exclusion of fishing vessel from the Latvian Ship 	Operators; beneficial owners

MS	Additional/alternative initiatives	Scope
	<p>Register and/or decision on consent to register of fishing vessels, shall indicate to the respective applicants the demand that nationals do not sell to or export any fishing vessels from operators involved in the operation, management or ownership of fishing vessels included in the Union IUU vessel list.</p> <ul style="list-style-type: none"> ■ The Latvian authorities have also introduced some improvements since 2022 to ensure Article 40 requirements of the IUU Regulation. The Ministry of Agriculture, when concluding a lease agreement for fishing rights with an company who owns fishing vessels which operate in the waters of the third countries, provides in agreement the following obligations for the company: not to engage in or support IUU fishing and do their best to deter fishermen working on board fishing vessels from engaging in such activities; not to sell or export fishing vessels to operators involved in the operation, management or ownership of fishing vessels included in the EU IUU vessel list; The Agreement was also updated with an obligation to inform the Ministry about IUU infringements by chartered vessels or fishermen; and in the event of a change of flag of companies fishing vessel, to inform about under which flag the fishing vessel will be registered operated in the future. ■ Also, the text of the fishing rights lease agreement is updated with the reference to the Fisheries law, which prescribes that, in accordance with Article 14 of the Fisheries Law to inform the State Environmental service regarding the following – if the company owns a fishing vessel registered in a third country or if the company owns such parts of a commercial company that owns a fishing vessel registered in a third country, as well as to inform on Latvians employed on the Lessee’s vessels under the flag of a third country. This information flow opportunity as another additional option for the companies and fishing vessels owners was used. At the same time, it is recognized as a serious tool how to manage compliance with the IUU Regulation within legally grounded and allowable company operations which are held outside the fishing rights allocated from the Ministry of Agriculture and managed in the framework of the fishing rights lease agreement. Like any civil act, the fishing rights lease agreement also provides sanctions for non-compliance, including termination of the agreement, which will lead to the cessation of fishing activities for the company. 	Beneficial owners
RO	<ul style="list-style-type: none"> ■ ANPA issued a letter of information on 25 March 2022 and another one on 28 March 2022, concerning the obligations provided by Articles 39 and 40 of IUU Regulation, submitted to the fisher’s associations and federations as well as to other authorities that have specific competences, including the Labour Ministry, the Ministry of Finance, the Ministry of Internal Affairs and the Ministry of Transport. 	Persons on board fishing vessels; operators; beneficial owners

2.3.3.2 Cooperation with third countries

The cooperation between the EU Member States is described in the Articles 42 to 48 of the IUU Regulation.

Pursuant to the Article 9 of the Council Regulation (EC) No 1224/2009 Member States shall establish and operate fisheries monitoring centres, which shall monitor fishing activities and fishing effort. EU Member States cooperate through their national fisheries monitoring centres. The notice is sent to this centre on the prescribed form. That is the official way of the communication between Member States.

In addition, the EU has entered into international agreements with third countries which provide for cooperation with third countries from which Member States directly benefit⁸⁸. For instance, the EU is party to the Agreement on Port State Measures (PSMA) which is the first binding international agreement to specifically target IUU fishing⁸⁹.

Table 15 lists other initiatives undertaken by the Member States themselves or to which they participate and which allow for cooperation of national authorities of the Member States with third countries for the identification of offenders who are nationals of these Member States.

Initiatives were mentioned in seven Member States⁹⁰. They referred to international as well as bilateral agreements, which provide a platform for cooperation. They also mentioned occasional informal collaboration. The role of the European Commission as intermediary was pointed out as well in a few cases.

Table 15 Specific initiatives to ensure cooperation with third countries for the identification of nationals offenders

MS	Initiatives
EL	<ul style="list-style-type: none"> Official contacts (bilateral and/or in cooperation with the competent Commission authority) were undertaken with the competent fisheries control authorities of third countries (either directly or through the diplomatic route).
ES	<ul style="list-style-type: none"> The Spanish government collaborates with third countries without the support of previous collaboration agreements, mainly, through its membership (both, individually and integrated in the EU) to the Convention for the Conservation of Antarctic Marine Living Resources. In addition, some bilateral agreements between states are useful.
FR	<ul style="list-style-type: none"> French authorities participate to working groups organised by Interpol which cover IUU fishing activities. France considers this a relevant instrument to reinforce cooperation with third countries and indicated that if French authorities were to share data or experience regarding IUU fishing activities, they would do so via the Interpol network.
HR	<ul style="list-style-type: none"> Pursuant to the Article 53 of the Council Regulation (EC) No 1224/2009, a Joint Deployment Plan is established between Croatia and Italy.
LT	<ul style="list-style-type: none"> Lithuanian Fisheries Service closely cooperates with its counterparts: competent authorities in Canada (Fisheries and Oceans Canada, DFO), USA (National Oceanic and Atmospheric Administration, NOAA, and others).
LV	<ul style="list-style-type: none"> The authorities cooperated with third countries in case they received information about possible problems (without an agreement), for example with the control authorities of Norway (informal cooperation)
PL	<ul style="list-style-type: none"> The Polish Sea fisheries administration cooperates with its Norwegian counterparts in terms of exchange of information on breaches of sea fisheries regulations, based on a bilateral agreement . .

Member States authorities were asked whether they were aware of other relevant measures in place to obtain information on the existence of arrangements between nationals of their Member States and third countries authorities/operators allowing the registration of fishing vessels to such third countries.

France mentioned that the possibility to obtain information via the network of Single Liaison Offices

⁸⁸ See https://ec.europa.eu/oceans-and-fisheries/fisheries/international-agreements_en

⁸⁹ See <https://www.fao.org/port-state-measures/background/parties-psma/en/>

⁹⁰ EL, ES, FR, HR, LT, LV and PL.

and through the contact details of the authorities in charge of the fight against IUU fishing or more generally of fisheries control in third countries provided by the European Commission.

Croatian authorities indicated that the fisheries inspectors and other competent authorities communicate and cooperate with Italian and Slovenian fisheries inspectors and their other competent authorities through established personal relationships.

Italian authorities observed that, while there is no specific procedure in place, if there is a need, for control purposes, to verify the possible existence of agreements between Italian citizens and authorities/operators of third countries aimed at the registration of a fishing vessel in that State, it is possible to obtain such information via the Liaison Officer of the Coast Guard at Interpol in Rome.

2.3.3.3 Notification to the Commission

Article 39(4) of the IUU Regulation provides that ‘each Member State shall notify to the Commission the **names of the competent authorities** responsible for coordinating the collection and verification of information on activities of nationals referred to in this Chapter and for reporting to and cooperating with the Commission’.

Among the replying Member States, 20 Member States⁹¹ declared that they notified the Commission of the names of the competent authorities responsible for coordinating the collection and verification of information on activities of nationals in accordance with Article 39(4). **Six (6) Member States declared not having notified the information**⁹².

2.3.3.4 Measures to encourage notification in accordance with Article 40(1) IUU Regulation

Table 16 lists the type of measures indicated by the national authorities of the Member States as being used to **encourage nationals of the Member States to notify and provide information** pertaining to their legal, beneficial, or financial interests in, or control of, fishing vessels flagged to a third country, and the names of the vessels concerned in accordance with Article 40(1) of the IUU Regulation.

There are no measures in place (either in law or in practice) in more than half (14) of the Member States⁹³. In **Ireland**, there are general legal obligations under the national legislation as the basis upon which nationals would be encouraged to highlight information related to fishing vessels flagged to a third country and the names of those vessels. However, no specific provision in national legislation requires or encourages such reporting of information relating to third country vessels.

In **Cyprus**, it is possible to fill in requests to assist via sighting form available on the authority’s website. Similarly, in **Croatia**, on the website of the Ministry of the Agriculture, it is possible for anyone to report the offences related to illegal fishing or poaching. In **Poland**, national law enables the Minister responsible for fisheries to transmit any information referred to in Article 40(1) via the website of the Minister's office.

In **Spain**, a reduction of the fine or exemption of the punishment is foreseen to any person denouncing IUU activities, including if they are involved in IUU fishing activities.

In **Latvia**, the measure takes the form of contractual obligations. The Latvian authorities have adopted recent measures to implement the requirements of Article 40 of the IUU Regulation. The Ministry of

⁹¹ BE, BG, CY, DK, EE, EL, ES, HR, HU, IE, IT, LV, MT, NL, PL, PT, RO, SE, SI and SK.

⁹² AT, CZ, DE, FR, FI and LT (not known for LU).

⁹³ BE, CZ, DE, DK, EL, FR, FI, HU, IE, NL, RO, SE, SI and SK. In IT, the information was not available to the authorities surveyed, as it is within the competence of another Ministry (Economic affairs).

Agriculture, when it concludes a lease agreement for fishing rights with a company who owns fishing vessels which operate in the waters of the third countries, provides an obligation to inform the Ministry about IUU infringements by chartered vessels or fishermen; in the event of a change of flag of companies fishing vessel – to inform under which flag the fishing vessel will be registered/operated in the future. The text of the fishing rights lease agreement is updated with the reference to the Fisheries law, which requires, in accordance with Article 14 of the Fisheries Law, to inform the State Environmental Service regarding the following: if the company owns a fishing vessel registered in a third country or if the company owns shares of a commercial company that owns a fishing vessel registered in a third country, to provide information about Latvians employed on the vessels under the flag of a third country. It is recognised as a serious tool to manage compliance with the IUU Regulation within legally grounded and allowable company operations which are held outside the fishing rights allocated from the Ministry of Agriculture and managed in the framework of the fishing rights lease agreement. Like any civil act, the fishing rights lease agreement also provides sanctions for non-compliance, including termination of the agreement, which will lead to the cessation of fishing activities for the company.

Table 16 Measures to encourage nationals of the Member States to notify and provide information pertaining to their interests in, or control of, fishing vessels flagged to a third country, and the names of the vessels concerned

MS	Legal obligations	Positive incentives	Negative incentives	Other
AT	✓			
BE				
BG		✓		
CY				✓
CZ				
DE				
DK				
EE	✓			
EL				
ES	✓	✓	✓	✓
FI				
FR				
HR				✓
HU				
IE				
LT			✓	
LV				✓
MT	✓			
NL				
PL		✓		✓
PT	✓			
RO				
SE				

MS	Legal obligations	Positive incentives	Negative incentives	Other
SI				
SK				

2.3.3.5 Procedure in place to implement Article 40(3) of the Regulation

Pursuant to **Article 40(3)** of the IUU Regulation, Member States shall not grant any public aid, either under national aid regimes or under EU funds, to operators who are involved in the operation, management or ownership of fishing vessels included in the Community IUU vessel list. Even though directly applicable, in order to ensure implementation, an actual procedure to check conditions before granting public aid is necessary. Such procedure shall apply both for EU funds (European Maritime and Fisheries Fund (EMFF), European Maritime, Fisheries and Aquaculture Fund (EMFAF)) and for national funding schemes.

With regard to funding under the EMFF, in accordance with Article 10(5) of Regulation (EU) No 508/2014, applicants had to sign a declaration stating that they 1) had not committed a serious violation under Article 42 of the IUU Regulation or Article 90 (1) of Regulation (EC) No 1224/2009; and 2) **had not participated in the activity, management or ownership of fishing vessels included in the list of the Union of vessels engaged in IUU fishing, according to Art. 40 (3)** of the IUU Regulation or on ships flying the flag of countries designated as non-cooperating third countries in accordance with Article 33 of the same regulation. Under the new EMFAF 2021-2027, a similar obligation will apply. A number of national authorities referred to that declaration in the context of, or as their sole, procedure to implement Article 40(3).

Table 17 provides an overview of the procedures in place in the Member States to implement Article 40(3) of the IUU Regulation whereby nationals engaged in/supporting IUU fishing shall not be granted any public aid. Beyond an actual check by designated authorities, a more elaborate procedure is provided in eight Member States⁹⁴.

Table 17 Procedures in place to implement Article 40(3)

MS	Description
AT	<ul style="list-style-type: none"> Declaration under Article 10(5) of the EMFF Regulation.
BE	<ul style="list-style-type: none"> National law provides for the interdiction in line with Article 40(3) and provide that the beneficiary must repay the aid if he commits an infringement as referred to in the first paragraph during the five years following the last payment. But no procedure was indicated by national authorities to implement such legal requirement.
BG	<ul style="list-style-type: none"> Declaration under Article 10(5) of the EMFF Regulation.
CY	<ul style="list-style-type: none"> Checked for every grant scheme if an operator requesting grants is in the national register for such infringements.
CZ	<ul style="list-style-type: none"> None
DE	<ul style="list-style-type: none"> Federal Government: Liquidity support from the Brexit adjustment reserve will only be granted to fishing enterprises whose owners or managing director according to Article 10(1) of the EMFF Regulation has not committed an infringement of Article 40(3). No corresponding procedure described. Schleswig-Holstein: Declaration under Article 10(5) of the EMFF Regulation.

⁹⁴ ES, FI, IT, MT, NL, PL, SE and SI.

MS	Description
	<ul style="list-style-type: none"> ■ Lower Saxony and Bremen: Declaration under Article 10(5) of the EMFF Regulation. As part of the application procedure for funding, the Bremerhaven State Fisheries Office checks if there were (serious) infringements with the BLE. ■ Mecklenburg-Western Pomerania: In each funding procedure, the allocation of points and infringements of the IUU Regulation are checked. ■ Landlocked regions: In accordance with Article 10(1)(b) of EMFF Regulation (EU) No 508/2014, every application for funding from the EMFF must be checked, inter alia, for a breach of Article 40(3) of Regulation (EC) No 1005/2008.
DK	<ul style="list-style-type: none"> ■ Declaration under Article 10(5) of the EMFF Regulation. ■ All applicants are checked by the Danish Fisheries Agency.
EE	<ul style="list-style-type: none"> ■ The Fisheries Market Organisation Act § 27 sets out the rules for granting aid under the European Maritime and Fisheries Fund. Section § 53 regulates recovery of support under the Fund and state aid. It should be noted that § 27 only concerns the EU fund not any other aid scheme.
EL	<ul style="list-style-type: none"> ■ The competent Managing Authority for the implementation of the national Operational Programme for Fisheries under the EMFF checks admissibility of applications submitted to ensure the operator has not committed a serious infringement, in which case the application of the operator is considered inadmissible for a period of at least 12 months.
ES	<ul style="list-style-type: none"> ■ Operators involved in the operation, management or ownership fishing included in the Community IUU vessels list can be barred from accessing any public aid. Sanctioning authorities can order such prohibition as a sanction for any public aid (not only linked to fishing). This ban cannot be longer than two years (minor infringements), three years (serious infringements) or seven (very serious infringements). ■ The procedures in place are those corresponding to IUU fishing sanctioning. These punishments are communicated to the Register of prohibitions to obtain public aid, managed at the State level by the General Intervention Board of the State Administration (IGAE). By doing so, access to public aid for Spanish nationals punished due to IUU fishing is banned. ■ In addition, the provision of EU Law according to which an application submitted by an operator for support from the EMFF shall be inadmissible if the operator concerned has committed a IUU serious infringement, is directly reflected in several Spanish regulations. This provision is also followed in any regulatory decisions related to public aid co-financed by the EMFF at national and regional level. ■ Finally, it is included within the document entitled ‘Selection criteria for the financed operations - EMFF operational programme’, approved by the EMFF monitoring committee.
FI	<p>There are three phases to ensure that the public aid shall not be granted to nationals engaged in IUU fishing:</p> <ul style="list-style-type: none"> ■ Firstly, the applicants have to ensure in the application form that they do not own a fishing vessel, which belongs to the list of IUU fishing vessel, and that they have not participated in any activities relating to the IUU fishing. ■ Secondly, one of the issues verified in the grant decision-making process, is that applicant has not violated rules concerning the IUU fishing or the CFP. These elements are in the official checklist that the authorities have to fill in before making the grant decision. ■ Thirdly, once a national receives support from the EMFF, the beneficiary has to comply with the CFP rules at least five years after the last payment. This rule is issued in the grant decision and violations are followed and reported by the authorities.
FR	<ul style="list-style-type: none"> ■ Application of Article 10 of the EMFF Regulation
HR	<ul style="list-style-type: none"> ■ National law provides that the beneficiary of fisheries aid may not sell, use contrary to the purpose for which it is intended, lease or otherwise make available to other legal or natural persons the material assets which are the subject of the aid for at least five years from the last payment received. ■ No specific procedure mentioned by authorities.
HU	<ul style="list-style-type: none"> ■ None

MS	Description
IE	<ul style="list-style-type: none"> None
IT	<ul style="list-style-type: none"> Nationals engaged in/supporting IUU fishing are excluded from any public aid according to the procedure of the national decree related to the application for the admission to public aid When a call for public aid is published, may it be national or European, checklists are published setting out the requirements for participation. These include, inter alia, the requirement that no serious infringements must have been committed in the five years preceding the call, and that no infringements must be committed for the next five years. In the national legislation, the concept of illegal fishing goes far beyond the moment that IUU fishing is sanctioned. In Italy, even if the penalty has been paid, the person is excluded from public aid for the simple fact of having committed a serious offence. Therefore, if the offence was committed before the publication of the call, the person is excluded ex officio from state aid. If it was committed after the publication of the call, the person must repay the amount given.
LT	<ul style="list-style-type: none"> Application of Article 10 of the EMFF Regulation.
LV	<ul style="list-style-type: none"> Application of Article 10 of the EMFF Regulation (reflected in national law)
MT	<ul style="list-style-type: none"> For the purpose of screening eligibility to the EMFF, the competent authority keeps a National Register of Information where it registers background checks based on the Infringement register. A specific unit within the authority, the EU Fund Section, is responsible for schemes and funds. It carries out checks on any legal/natural person related to any convictions following cases of non-compliance with the IUU Regulation. Where any such persons are identified further checks are requested to be carried out by the Police to investigate possibility of money laundering. If dissatisfied with the results of the investigations the funds may be denied to applicants (natural or legal persons).
NL	<ul style="list-style-type: none"> The Netherlands Enterprise Agency checks the list of serious infringements by vessel owners when assessing an application for funding.
PL	<ul style="list-style-type: none"> Applicants applying for financial support are verified for breach of CFP provisions before granting aid. Intermediate Authority that verifies applications for co-financing checks whether the applicant has not been entered in the register of infringements of CFP provisions, referred to in art. 80 of the Sea Fisheries Act, in connection with a serious infringement. Only applicants for which the Intermediate Authority has confirmed that they are not entered in the register of infringements due to committing a serious infringement are not excluded from the possibility of receiving financial support. (Art. 12 point 3(b) of the Act on the financial support under European Maritime and Fisheries Fund).
PT	<ul style="list-style-type: none"> Application of Article 10 of the EMFF Regulation.
RO	<ul style="list-style-type: none"> None
SE	<ul style="list-style-type: none"> The Swedish Board of Agriculture (that is in charge of the disbursement of public aid) is obliged to control that a disbursement of any public aid is compatible with Union law before the disbursement in question is made, The Swedish Board of Agriculture, as managing authority for EMFF, has also an internal procedure whereby they check applicants against the IUU vessel list before granting support.
SI	<ul style="list-style-type: none"> A procedure is provided for in the Decree on the implementation of measures from the Operational Programme for the Implementation of the EMFF in the Republic of Slovenia for the period 2014–2020 carried out through public tenders.
SK	<ul style="list-style-type: none"> None

3 ASSESSMENT OF THE ENFORCEMENT SYSTEMS REGARDING NATIONALS ACROSS THE EU UNDER ARTICLES 39 AND 40 IUU REGULATION

The present section delivers the results of Task 2 presented in Section 1.2.1.2 above. Based on the information provided in Section 2, it provides an assessment of the legislative frameworks and enforcement systems of the Member States regarding the obligations and sanctions to nationals for infringements to the rules arising from Articles 39 and 40 of the IUU Regulation. After analysing the suitability of the regulatory frameworks for the implementation of Articles 39 and 40 (Section 3.1), it presents the available data to help measuring the magnitude of the issues which require actual application of these requirements and the use of the tools required by the Regulation (Section 3.2).

3.1 APPROPRIATENESS OF THE REGULATORY FRAMEWORKS

Even though the obligations contained in Articles 39 and 40 of the IUU Regulation are directly applicable to all Member States by virtue of Article 288 TFEU, some elements need to be set up at national level to ensure the concrete implementation of the obligations. In particular, **procedures** should be in place, the **competent authorities** to implement such procedures clearly designated, and **sanctions** in place to ensure the enforcement of the requirement.

The fact that such elements are not provided in national law could indicate that the measures are unlikely to be implemented in practice. The assessment below is made on the basis of this observation. It takes note of the general legislative and policy frameworks currently in place in the Member States (Section 3.1.1), and at the appropriateness of the enforcement systems in place for obligations imposed on nationals and national authorities (Section 3.1.2), and at the adequacy of the sanctioning systems (Section 3.1.3).

3.1.1 Appropriateness of the general legislative and policy frameworks

Table 18 below provides an overview of the legal acts implementing Articles 39 and 40 of the IUU Regulation, major changes brought to such legislation relevant to the implementation of these provisions, and other existing non-legislative, documents relevant for the implementation of the obligations of the IUU Regulation applying to nationals.

Table 18 Overview of legislative and policy frameworks reflecting Articles 39 and 40⁹⁵

	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LT	LU	LV	MT	NL	PL	PT	RO	SE	SI	SK	
Legal acts	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓		✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	
Major change			✓			✓		✓		✓					✓		✓	✓	✓			✓	✓				✓	
Other documents	✓	✓				✓	✓					✓				✓	✓				✓	✓		✓		✓	✓	

⁹⁵ Based on the information provided in Table 1, Table 2 and Table 3 in Section 2.1 above.

This snapshot provides some indications as to the extent to which the rules set for nationals in the IUU Regulation are **proactively integrated by national policy makers into the national fishery policy**. In addition to having legal acts reflecting Articles 39 and 40 of the IUU Regulation, the fact that relevant legislative changes have been enacted in the recent years, and/or that soft law measures have been adopted show the relevance given to this question in each of the Member States. In that perspective, the **coverage of Articles 39 and 40 in the national frameworks is well ensured**, with either legislation or policy measures in place in 25 of the 27 Member States.

This observation should however be nuanced:

- With regard to **legal acts**, while in a number of Member States, the acts do expressly refer to Articles 39 and 40, in some other, the reference is more general, providing for requirements that apply to nationals but do not directly or expressly implement Articles 39 and 40 (e.g. Finland, Romania, Croatia). On the other hand, in **Greece and Romania**, the authorities indicated that there are plans to adopt relevant legislation, indicating some commitment to implementing the IUU provisions;
- In the Member States where **major changes** were reported since 2017, while such changes impact the implementation of Articles 39 and 40, with the exception of **Portugal**, they were not adopted with the aim to integrate the requirements of these provisions, and are thus not revealing a specific intent to adopt a legal framework to ensure the respect by nationals of the obligations set in the Regulation;
- In relation to **soft law measures**, they are usually guidelines and circulars impacting enforcement of the rules of the CFP on nationals (point system, serious infringements), but no Member State has adopted guidance on these aspects in particular and are thus not significative in terms of implementation of Articles 39 and 40 as such.

- ☞ The national legal and policy frameworks in place in the EU Member States provide for a **comprehensive coverage** in the legislation of obligations applying to nationals.
- ☞ In nearly all Member States, legal acts are relevant in the context of Articles 39 and 40 of the IUU Regulation. However, in a number of Member States, the applicable legislation, or the changes brought to such legislation, does **not directly or expressly implement Articles 39 and 40**, but rather provide the general legal framework which enables, at least to some extent, their application.
- ☞ Soft law measures, such as circulars and guidelines, have been inventoried in 11 Member States. Similarly to legal acts, these are **not specifically intended to facilitate the implementation of Articles 39 and 40** as such, but instead have a more or less significant impact on their application.

3.1.2 Appropriateness of the national measures reflecting Articles 39 and 40

3.1.2.1 National measures reflecting Articles 39(1) and 40(2) of the IUU Regulation into national law

The IUU Regulation provides for obligations applying directly to nationals: the prohibition for nationals to **support or engage** in IUU fishing (Article 39(1) of the IUU Regulation) and the prohibition to **sell or export fishing vessels** to operators involved in the operation, management or ownership of fishing vessels included in the Community IUU vessel list (Article 40(2) of the IUU Regulation).

Table 19 indicates whether measures are in place in the national legal orders to reflect the requirements of Articles 39(1) and 40(2) either expressly or by direct reference to the Regulation’s provisions.

Table 19 Legal measures implementing Articles 39(1) and 40(2) of the IUU Regulation into the MS legal orders⁹⁶

	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LT	LV	MT	NL	PL	PT	RO	SE	SI	SK
Art. 39(1)	✓	✓	✓		✓	✓		✓		✓	✓		✓	✓	✓	✓	✓			✓	✓	✓		✓	✓	
Art. 40(2)		✓				✓		✓		✓	✓		✓	✓		✓				✓						✓

Even though the Regulation as such, or a general reference to the Regulation in national law, provides in principle for a sufficient legal basis for enforcement action in the Member States, a more **specific reference to the requirements set in Articles 39(1) and 40(2) of the IUU Regulation** in the national legal order gives a **more visible legal basis** for national enforcement authorities to act, as the obligations applying more specifically to nationals are expressly provided in the national legislation.

However, whilst it can be considered a positive point, the existence of the relevant obligations in national law does not necessarily ensure on its own a proper implementation of the requirements. It is also necessary to have an **appropriate sanctioning system** in place to enforce such requirements, in particular in order to translate in national law the concept of ‘taking appropriate action’ required from Member States in Article 39(3) of the IUU Regulation.

Furthermore, where the requirements were reflected into national law, this was not necessarily done for all requirements (see Section 2.2.1 above).

3.1.2.2 National measures reflecting the obligations of the IUU Regulation applying to the Member States’ authorities

Table 20 indicates whether measures are in place in the national legal orders to reflect the requirements of:

- **Articles 39(2)** on cooperation among Member States and with third countries for the identification of nationals
- **Article 39(3)** on the need to take appropriate action against nationals engaged or supporting IUU fishing
- **Article 40(1)** encouraging nationals to notify their interests regarding fishing vessels flagged to a third country
- **Article 40(3)** on the barring from public funds for nationals in the operation, management or ownership of vessels included in the Community vessel list
- **Article 40(4)** requesting Member States to obtain information on the existence of arrangements between nationals and third countries allowing reflagging of their vessels to third country flags and to report it to the Commission.

⁹⁶ Based on Table 4.

Table 20 Legal measures implementing Articles 39(1) and 40(2) of the IUU Regulation into the MS legal orders⁹⁷

	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LT	LV	MT	NL	PL	PT	RO	SE	SI	SK
Art. 39(2)	✓					✓		✓		✓						✓			✓		✓					
Art. 39(3)	✓	✓				✓		✓		✓	✓			✓		✓	✓	✓	✓	✓	✓	✓				
Art. 40(1)	✓			✓				✓		✓								✓			✓					
Art. 40(3)		✓		✓		✓	✓	✓		✓						✓		✓		✓	✓	✓		✓	✓	
Art. 40(4)				✓				✓		✓						✓	✓								✓	

As for the obligations regarding nationals, the fact that provisions of the Regulation are in place in the legislation of the Member States does not ensure that the corresponding requirements are implemented in practice.

It is even more so when the requirements in question are addressed to the national authorities. Unlike obligations addressed to operators, these requirements do not rely on the legal definition of obligations and of corresponding sanctions. It is nevertheless one of the factors, albeit not the strongest one, to measure the level of commitment towards the implementation of the requirements set in the Regulation. A more important factor however is the adoption of relevant procedures to implement the requirements in question.

In addition, even when reflected, the requirements are in some cases only **partially** provided into national law. It is the case for Article 40(3) regarding **Estonia, Poland and Slovenia**, where national law only covers EU schemes and not national schemes as per the Regulation, and for Article 40(4) for **Lithuania and Slovenia** which only provide for reporting of information to the Commission, and not that the information should be obtained in the first place.

- ☞ The different obligations set in Articles 39 and 40 of the IUU Regulation are reflected in national law to a variable extent across Member States. Several of the Member States consider that the direct applicability of the Regulation does **not justify adopting separate legislation at national level**.
- ☞ It may nevertheless be considered that the adoption of specific rules regarding the requirements of Articles 39 and 40 **contributes significantly to the proper implementation of these requirements** in the Member States. This is especially the case for obligations applying to nationals, which require setting up the relevant procedures for control and enforcement, the designation of competent authorities, and first and foremost the adoption of corresponding sanctions.
- ☞ While the adoption of measures tailored to the implementation of Articles 39 and 40 would

⁹⁷ Based on Table 4.

tend to indicate a certain level of commitment of the Member States towards the implementation of these obligations, in the Member States where measures were adopted at national level, the requirements were nonetheless in some cases only **partially reflected**. At the same time, according to national authorities consulted, several of the Member States which did not reflect the provisions apply them in practice.

3.1.3 Appropriateness of the sanctioning systems

Beyond national measures reflecting Articles 39 and 40 of the IUU Regulation, the Member States shall have rules on **jurisdiction** which actually enable the sanctioning of nationals which are not on the national territory or in national waters (Section 3.1.3.1), actual **penalties** provided by law to sanction nationals engaged or supporting IUU fishing activities (Section 3.1.3.2), **enforcement authorities** with sufficient powers (Section 3.1.3.3) as well as **procedures** to implement the requirements of Articles 39 and 40 (Section 3.1.3.4). Other actions undertaken by national authorities is also a relevant indicator of the level of implementation of the requirements in the national enforcement systems (Section 3.1.3.5).

3.1.3.1 Jurisdiction to sanction nationals

Article 39(3) requires Member States to ‘**take appropriate action** [...] with regard to nationals identified as supporting or engaged in IUU fishing’. Taking action relates directly to the question of jurisdiction.

Indeed, the prohibitions applying to nationals, and in particular those provided under **Article 39(1)** of the IUU Regulation, relate to a broad range of activities which may be undertaken by nationals in their Member State, but also in other Member States, in third countries and waters under jurisdiction of those countries or on high seas.

Within this context, the rules in place in the Member States regarding jurisdiction, and in particular whether national enforcement authorities have the power or right to exercise authority over any national and the limits or territory within which such authority may be exercised are of crucial importance. Indeed, where they are too restrictive, the **rules on jurisdiction applicable in the Member States may simply not allow to sanction all types of engagement or support foreseen in Article 39(1)**.

Table 21 below indicates whether the national legal systems of the Member States enable the competent authorities to exercise authority over nationals and whether sanctions are applicable in all situations covered under Article 39(1). The table distinguishes engagement and support of IUU fishing.

Table 21 National rules on jurisdiction allowing unrestricted application of Article 39(1)⁹⁸

	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LT	LV	MT	NL	PL	PT	RO	SE	SI	SK
Engage-		✓	✓ ⁹⁹			✓	✓	✓ ¹⁰⁰	✓	✓ ¹⁰¹	✓		✓	✓	✓	✓		✓	✓	✓ ¹⁰²		✓	✓ ¹⁰³	✓ ¹⁰⁴		

⁹⁸ Based on Table 6 and Table 7.

⁹⁹ Under condition for administrative violations, see Table 6.

¹⁰⁰ Under conditions for criminal offences, see Table 6.

¹⁰¹ Under conditions if the third-country vessel is not on the IUU fishing list, see Table 6.

¹⁰² Under conditions and only for certain criminal offences, see Table 6.

¹⁰³ Under conditions and only for criminal offences, see Table 6.

¹⁰⁴ Under conditions for criminal offences, see Table 6.

	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LT	LV	MT	NL	PL	PT	RO	SE	SI	SK
Support	✓		✓	✓		✓		✓		✓	✓		✓		✓	✓			✓	✓			✓	✓	✓	

Engagement

With regard to **engagement**, in nearly all Member States, the rules of jurisdiction allow a proper implementation of Article 39(1) of the IUU Regulation.

Nevertheless, it is subject to conditions in a number of Member States. More specifically for **Italy, Malta, Poland**, the scope of the relevant provisions may however restrict the application of the relevant rules (i.e. application limited to certain legal persons in Poland, exclusion of any legal persons for criminal offences in Malta, full jurisdiction only for ‘seafarers’ in Italy). Such conditions are in line with the provision of Article 39(3) stating that action shall be taken ‘subject to and in accordance with their applicable laws and regulations’.

In the **Czech Republic and Slovakia**, the question is **not covered under national law at all**, because it is not considered an applicable issue, to the extent that the situation where nationals would be engaged in IUU fishing is unlikely, primarily due to the absence of vessels flying the Czech or Slovak flag. The argument is not necessarily valid, as nationals may be engaged on a vessel flying another flag and Article 39 would still need to be applied by the national authorities. Conversely, the legislation ensures jurisdiction in **Hungary**.

In **Austria, Cyprus, France, Lithuania, Poland and Slovenia**¹⁰⁵, the rules in place **do not ensure that enforcement authorities have unlimited jurisdiction** regarding activities carried out by their nationals. National authorities only have jurisdiction on their territory (in accordance with general or fisheries legislation), and onboard vessels flying the national flag. These limitations prevent the full application of Article 39(1) of the IUU Regulation, which applies to any national, including those engaged or supporting IUU fishing on board a vessel flying another flag or on foreign territory.

Support

Support may cover a number of different situations, as explained in the above section. In addition to similar restrictions on the territorial scope of jurisdiction to those observed in relation to engagement of nationals in IUU fishing, the analysis indicates in some cases a partial coverage of the scenarios in **Denmark, Greece, Hungary and Latvia**.

For **Austria, Cyprus and Slovenia**, while the territorial jurisdiction is limited, legislation is in place for all types of support covered. This is mainly due to the presence of sanctions covering these different situations.

This indicator is particularly **helpful to illustrate the level of implementation** of the requirements of Article 39(1), as the list covers scenarios such as insurance providers, financial services providers, HR companies, nationals managing register which may not be covered by fisheries legislation.

Where covered in the Member States, it was nevertheless usually because the formulation of the legal measures was **broad enough to encompass all types** of support (e.g. ‘conduct business directly connected to IUU fishing, including the trade in/or the importation of fishery products). While providing a satisfactory legal basis directly in national law to sanction any support, which may facilitate enforcement, such approach does not necessarily ensure that these situations would be systematically identified and assimilated to an illegal behaviour falling under Article 39 of the IUU Regulation.

Furthermore, while rules may be in place, regarding both **engagement and support**, the national

¹⁰⁵ For administrative sanctions.

authorities of six Member States¹⁰⁶ pointed out difficulties with the rules on jurisdiction applicable in their Member States and/or with their implementation. This also illustrates that reflecting the rules does not guarantee their efficient implementation.

3.1.3.2 Existence of sanctions

Table 22 below gives a snapshot of the existence of sanctions regarding (1) nationals engaged or supporting IUU fishing and (2) nationals selling or exporting fishing vessels to operators involved in IUU fishing.

Table 22 Existence of applicable sanctions for key requirements¹⁰⁷

	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LT	LV	MT	NL	PL	PT	RO	SE	SI	SK	
En-gage/Su pport	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Sell-ing/Ex- porting	✓			✓	✓	✓	✓			✓	✓	✓	✓					✓	✓	✓						✓	

It is **critical to have sanctions in place in national law** regarding the obligations imposed on nationals under Articles 39 and 40 of the IUU Regulation. Whereas the prohibitions set in the Regulation may be considered directly applicable and do not necessarily require implementing measures, corresponding sanctions need to be in place to ensure their proper application. The overview of existing sanctions is therefore a very strong indicator of the appropriateness of the national enforcement systems with regard to Articles 39 and 40 of the IUU Regulation.

The overview shows a **nearly complete coverage** for sanctions regarding engagement and support of IUU fishing by nationals. This overall positive assessment should however be nuanced:

- Sanctions apply **within the limitations** presented above regarding the rules on **jurisdiction** and the **definition** of offences. While sanctions corresponding to the infringements committed by nationals are in place, they **may not apply in all situations foreseen under the Regulation**, because enforcement authorities can only act within a restricted perimeter and/or because, for instance in the case of support, **not all scenarios** (e.g. service providers) **are covered by national law**;
- Sanctions may be **administrative and/or criminal** (see Table 9 in Section 2.3.1.4 above). Both have weaknesses and advantages: on one hand, administrative sanctions may indicate a more speedy and efficient procedure, dependent upon well-defined attributions of enforcement authorities; on the other hand, criminal sanctions have more restrictive conditions and imply a more complex and lengthy procedure, they also correspond to heavier and more dissuasive penalties¹⁰⁸.
- Sanctions in place usually cover in **general terms the relevant infringements** of the IUU Regulation, but do not specifically target offences committed by nationals. This does not prevent an effective sanctioning of such persons but does not indicate a specific sanctioning

¹⁰⁶ EL, ES, FI, LT, LV and MT. See Section 2.3.1.3.

¹⁰⁷ Based on Table 9Table 4.

¹⁰⁸ On this issue, see for instance European Commission, Study on the sanctioning systems of Member States for infringements to the rules of the Common Fisheries Policy – EU Overall Report, 2021.

policy targeting this type of infringement.

3.1.3.3 Enforcement authorities' powers and capacity

As indicated in Section 2.3.2.2, enforcement authorities are attributed **competences relevant** for the implementation of Articles 39 and 40 of the IUU Regulation in all Member States. Nevertheless, no legislation is specifically tailored to address specifically the needs of controls and sanctioning relating to nationals.

In addition, it is not possible to meaningfully compare the **size of inspectorates** across Member States, as, where it is available, the data provided by the national authorities correspond to the time spent by the national enforcement authorities on the enforcement of the CFP, not only on IUU fishing activities. No data is provided on the time dedicated to the specific issue covered in this report. In addition, the appropriateness of the size of inspectors needs to be put in perspective with the number of nationals which would be covered in each Member State by Articles 39 and 40. Such information is however not available.

Nevertheless, national authorities indicated experiencing specific issues in some Member States. Table 23 below provides an overview of whether Member States indicate any difficulties.

Table 23 Absence of obstacles mentioned by enforcement authorities¹⁰⁹

	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LT	LV	MT	NL	PL	PT	RO	SE	SI	SK
Obstacles reported	N	N	N	Y	N	N	N	Y	Y	Y	N	N	N	N	N	Y	Y	N	Y	Y	N	N	Y	N	N	N

Member States national authorities reporting obstacles in initiating procedures and/or sanctioning nationals engaged in/supporting IUU fishing is a **good indicator that there are issues in the Member State which prevent the proper implementation** of the requirements of Articles 39 and 40.

However, it does not necessarily mean that the Member States for which problems were not reported do not actually experience similar or other issues.

In addition, the problems experienced are of different magnitude. Some Member States expressed concerns about the **feasibility of identification** of the nationals engaged or supporting IUU fishing which would de facto deprive the legal requirements of Article 39(1) of its effects. Others referred to coordination of authorities (domestic or cross-border) which, though creating an impediment, would not completely prevent implementation.

3.1.3.4 Existence of procedures implementing the requirements of Articles 39 and 40 of the IUU Regulation

With the sanctions in place and the designation of enforcement authorities, the existence of **clearly defined procedures** implementing the requirements of Article 39 and 40 of the IUU Regulation is one of the key features of an effective enforcement system.

Table 24 below provides for an overview of the existence of procedures/measures in the national systems to implement key requirements set in Articles 39 and 40 of the IUU Regulation:

¹⁰⁹ Based on Table 13.

- **Article 39(2)**: to implement the requirement to ensure effective cooperation with third countries;
- **Article 40(1)**: to encourage nationals to notify any information pertaining to legal, beneficial or financial interests in, or control of, fishing vessels flagged to a third country which they hold, and the names of the vessels concerned;
- **Article 40(3)**: to ensure that public aid under national aid regimes or under EU funds is not granted to operators involved in the operation, management or ownership of fishing vessels included in the Community IUU vessel list.

Table 24 Existence of procedures for key requirements

	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LT	LV	MT	NL	PL	PT	RO	SE	SI	SK
39(2) ¹¹⁰									✓	✓		✓	✓				✓	✓			✓					
40(1) ¹¹¹	✓		✓	✓				✓		✓		✓					✓	✓	✓		✓	✓				
40(3) ¹¹²				✓		✓	✓			✓	✓					✓			✓	✓	✓			✓	✓	

Existing initiatives for cooperation with third countries in accordance with Article 39(2)

Undertaking, or participating in, initiatives to ensure cooperation with third countries for the identification of national offenders demonstrates a **proactive implementation** of the Regulation's requirement. This is especially important since the identification of nationals engaged in IUU fishing outside EU waters on board vessels without nationality or registered in third countries or supporting IUU fishing was identified as a major concern in several Member States.

Nevertheless, depending on their nature, the initiatives cited are **likely to have different impacts**. Where relying on a formal setting (e.g. bilateral or multilateral agreement in Spain, Croatia, Poland, membership to working groups for France), such initiatives are more likely to have a more systematic and steady impact than informal cooperation (Lithuania, Latvia).

Existence and type of incentives for notification by nationals in accordance with Article 40(1)

In relation to Article 40(1), Table 24 shows where **any measure** has been adopted to encourage notification by nationals.

The measures may however have a more or less strong effect, depending on their type. Where only **legal obligations** are in place (e.g. Austria, Estonia, Malta, Portugal), they ensure legal certainty, and thus may constitute a stronger incentive for nationals to notify their interest. **Positive incentives** (Bulgaria, Poland) may have a weaker impact than **negative** ones (Lithuania), even though this would also depend on the level of deterrence provided by negative incentives. **Other types** of incentives (electronic instrument in Cyprus and Croatia, contractual agreement in Latvia) show a **strong commitment** towards implementation of the requirement. Finally, in terms of efficiency, Member States **combining** different types of tools (Spain, Poland) are more likely to get nationals to notify their interests.

Existence of procedures regarding the barring from public funds in accordance with Article 40(3)

The overview presented in the table above indicates only Member States where the procedure fully

¹¹⁰ Based on Table 15.

¹¹¹ Based on Table 16.

¹¹² Based on Table 17.

covers the requirement of Article 40(3):

- where the procedure in place does not assimilate the **sole implementation of Article 10 of the EMFF Regulation** requiring the applicant for the European fund to submit declaration attesting that they are not involved in IUU fishing, to an existing procedure. Indeed, such requirement is not indicative of a procedure established by the Member States, and which would apply to any fund, as requested under Article 40(3). Under the new **EMFAF 2021-2027**, a similar obligation will apply.
- Similarly, Member States which have adopted procedures **only in relation to EU funds** are not reflected in the table above.

On that basis, the overview shows that the adoption of procedures under Article 40(3) is very partial across Member States. Furthermore, where in place, the **level of detail of the procedures** varies greatly, from Member States only designating the authorities in charge of the check (Denmark, the Netherlands) to detailed sanctioning procedures establishing coordination between different national authorities (e.g. Spain, Poland) or a step-by-step approach (e.g. Finland).

3.1.3.5 Other actions undertaken by the national authorities

Table 25 provides an overview of additional and alternative actions undertaken by authorities to ensure the implementation of Articles 39 and 40 of the IUU Regulation.

Table 25 Additional and/or alternative initiatives¹¹³

	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LT	LV	MT	NL	PL	PT	RO	SE	SI	SK
Other actions				✓				✓					✓			✓	✓	✓					✓			

The adoption of additional initiatives by national authorities are a good indicator of the level of commitment of the authorities in ensuring the implementation of the requirements on nationals. However, the concrete impact in terms of enforcement is difficult to assess.

As for other instruments adopted for implementation, the positive impact of such actions will vary depending on their nature and their targeted addressees. A number of Member States (Cyprus, Croatia, Lithuania, Romania) pointed out to **awareness raising activities**. Such activities are relevant to encourage nationals to respect the rules as well as to notify their interests in accordance with Article 40(1) of the IUU Regulation, but they are punctual. Other Member States developed **guidelines** for the implementation of the relevant rules (Estonia, Italy). While such rules may bring some clarity and facilitate the implementation by enforcement authorities of the sanctioning system, they are not specifically targeting offences by nationals, and may not be tailored enough to ensure implementation of the specific requirements at stake.

Initiatives specifically developed to implement a **sanctioning system for nationals** have been observed in Cyprus (targeted research and analysis of information) and Latvia (lease agreement with conditions for owners). Such actions display interesting ways to increase efficiency of implementation.

☞ The adoption of measures reflecting Articles 39 and 40 of the IUU Regulation should be accompanied by the establishment of a comprehensive enforcement framework that encompasses rules on **jurisdiction** to enable control and sanctioning, actual **penalties**

¹¹³ Based on Table 14.

provided by law to sanction nationals engaged or supporting IUU fishing activities, well defined **enforcement authorities** to implement such rules and sanctions, as well as established **procedures** to guide implementation.

- ☞ In order for the Member States to take appropriate action against nationals engaged or supporting IUU fishing, it is necessary to have **rules on jurisdiction** in place to ensure that enforcement authorities have the power to exercise authority over any national, regardless of whether they are on the national territory, on board a vessel flying the national flag or the flag of a third country or a vessel without nationality. All but eight (8) Member States¹¹⁴ have a system ensuring jurisdiction, including extraterritorial, over **any of their nationals engaged** in IUU fishing. For four (4) further Member States¹¹⁵, jurisdiction is not ensured for all types of support.
- ☞ Whereas the prohibitions set in the Regulation may be considered directly applicable, it is critical to have corresponding **sanctions** in national law to ensure their enforcement. Sanctions can be applied to nationals engaged or supporting IUU fishing in all Member States but one¹¹⁶. Sanctions are also in place for nationals selling or exporting fishing vessels to operators involved in IUU fishing in thirteen (13) Member States¹¹⁷. However, the application of these sanctions is **restricted by the rules on jurisdiction** in some Member States as explained in the previous point. Moreover, they are usually **not tailored** specifically to offences committed by nationals.
- ☞ To apply sanctions defined by law, it is necessary to have clearly designated enforcement authorities, with sufficient powers and resources. Obstacles were reported by the consulted national authorities regarding the **powers and capacity of enforcement authorities** in nine (9) Member States¹¹⁸. It does not however indicate that enforcement authorities of other Member States do not experience similar or other issues to control and sanction nationals engaged or supporting IUU fishing. In fact, some of the obstacles reported, such as **difficulties in identifying nationals** outside the national territory and waters, are likely to be encountered in all Member States.
- ☞ Precisely to address the issue of **identification of nationals**, national systems should encompass clear **measures** firstly regarding **cooperation with third countries** to identify national offenders, in accordance with Article 39(2) of the Regulation, and secondly regulating the **notification by nationals of their interests** with fishing vessels flagged to a third country pursuant to Article 40(1). On the first point, only seven (7) Member States provide such procedure¹¹⁹; and even within those, the measures adopted differ in terms of impact, depending on whether they are formal or informal. On the second point, eleven (11) Member States¹²⁰ provide for the relevant measures. Here as well, the importance of the measures vary depending on their nature (positive, negative, legal or a combination of these possibilities).
- ☞ In terms of necessary **procedures**, mechanisms should at least be in place to apply Article 40(3) requesting Member States to ensure that **public aid under national aid regimes or under EU funds is not granted** to operators involved in the operation, management or ownership of fishing vessels included in the Community IUU vessel list. Such procedures have been adopted in a sufficiently comprehensive manner in eleven (11) Member

¹¹⁴ AT, CY, CZ, FR, LT, PL, SI and SK.

¹¹⁵ DK, EL, HU and LV.

¹¹⁶ SK.

¹¹⁷ AT, CY, CZ, DE, DE, ES, FI, FR, HR, LV, MT, NL and SI.

¹¹⁸ CY, EE, EL, ES, IT, LT, MT, NL and RO.

¹¹⁹ EL, ES, FR, HR, LT, LV and PL.

¹²⁰ AT, BG, CY, EE, ES, HR, LT, LV, MT, PL and PT.

States¹²¹. In the remaining Member States, procedure only cover EU funds, and in most cases is restricted to applying the requirements of the EMFF Regulation, which does not encompass all situations foreseen under Article 40(3).

☞ **Other actions** to contribute to the implementation of Articles 39 and 40 were mentioned in seven (7) Member States¹²². Such additional initiatives contribute to a better implementation of the obligations imposed on nationals. As for other instruments adopted for implementation, the impact of such actions vary depending on their nature and their targeted addressees. They include awareness raising activities and the development of guidelines, which are not directly intended to implement this specific question. They may also include more tailored tools such as targeted research activities or the use of lease agreements with owners to impose the relevant rules¹²³.

3.1.4 Overview of appropriateness of the regulatory framework

Table 26 below provides an overview of all indicators present in the previous sections. Consequently, it gives a snapshot of the extent to which sanctioning procedures have been adopted in the national legal and policy framework to implement Articles 39 and 40 of the IUU Regulation.

While it shows trends by Member States, these should be observed together with the nuances and reservations presented in the previous sections.

¹²¹ CY, DE, DK, ES, FI, IT, MT, NL, PL, SE and SI.

¹²² CY, EE, HR, IT, LT, LV and RO.

¹²³ Respectively in CY and LV.

Table 26 Overview table

	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LT	LV	MT	NL	PL	PT	RO	SE	SI	SK	
General legislative and regulatory framework																											
Legal acts	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Major changes			✓			✓		✓		✓					✓		✓	✓			✓	✓				✓	✓
Other documents	✓	✓				✓	✓					✓				✓	✓			✓	✓		✓		✓	✓	
National measures implementing Articles 39 and 40																											
Art. 39(1)	✓	✓	✓		✓	✓		✓		✓	✓		✓	✓	✓	✓	✓			✓	✓	✓		✓	✓		
Art. 39(2)	✓					✓		✓		✓						✓			✓		✓						
Art. 39(3)	✓	✓				✓		✓		✓	✓			✓		✓	✓	✓	✓	✓	✓	✓					
Art. 40(1)	✓			✓				✓		✓								✓			✓						
Art. 40(2)		✓				✓		✓		✓	✓		✓	✓		✓				✓						✓	
Art. 40(3)		✓		✓		✓	✓	✓		✓						✓		✓		✓	✓	✓		✓	✓	✓	
Art. 40(4)				✓				✓		✓						✓	✓									✓	
Jurisdiction to sanction nationals																											
Engagement		✓	✓			✓	✓	✓	✓	✓	✓		✓	✓	✓	✓		✓	✓	✓		✓	✓	✓	✓		
Support	✓		✓	✓		✓		✓		✓	✓		✓		✓	✓			✓	✓			✓	✓	✓		
Existence of sanctions																											
Engage/Support	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Selling/Exporting	✓			✓	✓	✓	✓			✓	✓	✓	✓					✓	✓	✓						✓	
Absence of obstacles mentioned by enforcement authorities																											
Obstacles reported	N	N	N	Y	N	N	N	Y	Y	Y	N	N	N	N	N	Y	Y	N	Y	Y	N	N	Y	N	N	N	N

	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LT	LV	MT	NL	PL	PT	RO	SE	SI	SK	
Existence of procedures for key requirements																											
39 (2)									✓	✓		✓	✓				✓	✓			✓						
40 (1)	✓		✓	✓				✓		✓			✓				✓	✓	✓		✓	✓					
40 (3)				✓		✓	✓			✓	✓					✓			✓	✓	✓			✓	✓		
Additional and/or alternative initiatives																											
Other actions				✓				✓					✓			✓	✓	✓					✓				

3.2 PRACTICAL IMPLEMENTATION OF THE REGULATORY FRAMEWORK

In order to assess the enforcement and sanctioning systems in the Member States, in addition to assessing the completeness and relevance of the regulatory frameworks in place, it is necessary to measure the practical implementation of these frameworks, and thus to evaluate the concrete application of the measures adopted in each Member State. As explained under Section 1.2.1.2, Member States competent authorities have been asked to provide information on sanctioning of nationals engaged or supporting IUU fishing activities within the specific meaning of Articles 39 and 40. The results of this data call are presented in Section 3.2.1. They have also been asked to provide data on exchanges with other Member States and third countries for the identification of nationals within the meaning of Article 39. The outcome is presented in Section 3.2.2.

3.2.1 Data on sanctioning of nationals engaged in/supporting IUU fishing under Articles 39 and 40 of the IUU Regulation

3.2.1.1 Availability of data

Table 27 below shows the availability of data on the sanctioning of nationals engaged in IUU activities falling under Articles 39 and 40. Out of the twenty-six (26) Member States that provided a response to the survey, seventeen (17) indicated that data is available. These Member States keep a record of infringements committed to the CFP and of sanctions applied.

Table 27 Availability of data

MS	Yes/No	Type/Scope of the data
AT	Yes	National enforcement database
BE	Yes	National enforcement database
BG	No	Due to the lack of explicit provision transposing Articles 39 and 40 of the IUU Regulation, there is no data on the sanctioning of nationals engaged in IUU activities gathered/recorded (i.e., distinguish-ing nationals and including sanctions applying to nationals who committed an infraction outside the Exclusive Economic Zone).
CY	Yes	National database on infringements.
CZ	No	N/A
DE	Yes	National databased on infringements
DK	Yes	National databased on infringements
EE	No	There is a national criminal records database (Estonian Criminal Record Database). But the information gathered is not specific to implementation of Articles 39 and 40. There is no information about Estonian nationals supporting or engaging in IUU fishing that relate to the listed vessels.
EL	Yes	Enforcement database under Hellenic Coastguard.
ES	Yes	National Register of Serious Infringements against the CFP; part of a database called SAN-CIPES (<i>Sanciones en Pesca Marítima</i>) and connected with the fishery information system, SIPE.
FI	Yes	Finnish registry of sanctions NB: Common register to all IUU violations but does not indicate the location of the incident. A geographical location or data is not recorded in the register, and searches on the

MS	Yes/No	Type/Scope of the data
		register cannot be performed based on the location of the incident. No information available on the specific data for Åland.
FR	Yes	National Register of CFP Offenses (RNIP) NB: all administrative and criminal sanctions imposed on French captains and ship-owners of vessels flying the French flag, whether they were committed within an EEZ or at high sea. The area in which the infringement was committed is not included in the RNIP, but the register is linked to the French database of inspection reports, which provides all the details on the control.
HR	No	All the records on the detected irregularities and committed misdemeanours are official records which are accessible only to the fisheries inspectors and other authorized persons.
HU	No	The database of the Ministry of Interior and the police ¹²⁴ provides aggregated data on the crimes committed by type and by county. There is no breakdown referring to IUU fishing in the numbers of the committed crime of poaching fish.
IE	No	NB: The absence of database results from the absence of cases. If the need would arise, Ireland would implement a database/register.
IT	Yes	National enforcement database NB: Contains personal data, infringement data, fishing vessel data, the type of sanction, type of procedure and supplementary sanction.
LT	Yes	National Register of Administrative Penalties (for administrative fines). All data concerning fishing infringements, including the one called "IUU", are reported on the digital platform called "GIANO".
LV	No	NB: No practical experience dealing with IUU fishing cases due to the lack of infringements. On the other hand, it is not clear how to carry out control of nationals engaged on board third country fishing vessels, considering that Latvian authorities have provided for appropriate obligations for nationals under national law to inform the State Environmental Service of ownership of vessels registered in a third country engaged in fishing or employment on such vessels (Article 14 (1) of the Fisheries Law), but, to date, no such information has been received. This may explain the lack of data regarding IUU fishing on board third country fishing vessels.
MT	Yes	Possibility of Non-Compliance register database
NL	No	N/A
PL	Yes	Register of infringements to the CFP. NB: Contains identification information on the fishing vessel owner and the captain of the fishing vessel; the fishing vessel used to commit the infringement; the type of the infringement to the CFP provisions; the number of points awarded for serious infringements; the financial penalties imposed for infringements of the provisions of the CFP.
PT	Yes	SIFICAP database on vessels and ship operators.
RO	No	N/A
SE	Yes	National infringement registry SANKBAS. NB: includes personal information about the suspected national and the vessel used, the circumstances of the suspected infringement, as well as any documents and acts that resulted from the case.

¹²⁴ Available at: <https://bsr.bm.hu/Document>.

MS	Yes/No	Type/Scope of the data
SI	Yes	Fisheries inspection information system (eNIS) running on the servers of the Inspectorate of the RS for Agriculture, Forestry, Hunting and Fisheries Electronic fisheries inspection reports
SK	No	N/A

3.2.1.2 Overview of the relevant data

Tables 28 to 32 below provide an overview of the data provided by 16 of the 17 Member States that indicated that data on the sanctioning of nationals engaged and supporting IUU fishing activities under Articles 39 and 40 is recorded¹²⁵. The scarce data available shows that very few cases of such nationals identified as supporting/engaging in IUU fishing under Article 39 and 40 occurred over the period between 2017-2021. The highest number of detected cases (25) was in Spain in 2017. Only two notifications by nationals (Article 40(1)) and two notifications to the Commission (Article 40(4)) were issued in 2021 in Malta. Only four (4) of the Member States that provided data (out 14) used mutual assistance in at least one case between 2017-2021, with Germany having used mutual assistance the most, in 72 cases overall. In addition, cases where nationals were refused public funding only occurred in Spain.

Implementation of measures and procedures

Implementation of notifications by nationals in accordance with Article 40(1)

Based on the incentives and legal obligations assessed in Section 3.1.3.4, cases of notifications are non-existent, except two (2) cases mentioned for Malta. If the information provided is correct, it would seem that the **system is not implemented in practice**, as it is unlikely that no national has any interest in third country vessels in any of the Member States, except for one.

Table 28 Data provided on the number of notifications by nationals (Article 40(1)) - 2017-2021

Number of notifications by nationals (Article 40(1))						
MS	2017	2018	2019	2020	2021	Overall
AT	0	0	0	0	0	0
BE	0	0	0	0	0	0
CY	0	0	0	0	0	0
DE	0	0	0	0	0	0
DK	0	0	0	0	0	0
EL	0	0	0	0	0	0
ES	0	0	0	0	0	0
FI	0	0	0	0	0	0
FR	0	0	0	0	0	0
LT	0	0	0	0	0	0
MT	0	0	0	0	2	2

¹²⁵ Though indicated having data available, the Italian authorities did not send the relevant data within the timeframe of the project.

Number of notifications by nationals (Article 40(1))						
MS	2017	2018	2019	2020	2021	Overall
PL	0	0	0	0	0	0
PT	0	0	0	0	0	0
SE	0	0	0	0	0	0
SI	0	0	0	0	0	0

Implementation of notifications to the Commission in accordance with Article 40(4)

Article 40(4) requires Member States submit to the Commission a list of the fishing vessels concerned by arrangement between nationals and a third country allowing the reflagging of fishing vessels flying their flag to such third country. The Member States authorities consulted indicated **not having notified the Commission, except for Greece and Malta**. For the Member States where this information was reported, if accurate, it would indicate that either no such cases exist in the Member States, or that they do not take sufficient measures to gather the relevant information.

Table 29 Data provided on the number of notifications to the Commission (Article 40(4)) - 2017-2021

Number of notifications to the Commission (Article 40(4))						
MS	2017	2018	2019	2020	2021	Overall
AT	0	0	0	0	0	0
BE	0	0	0	0	0	0
CY	0	0	0	0	0	0
DE	0	0	0	0	0	0
DK	0	0	0	0	0	0
EL	0	0	0	2	0	2
ES	0	0	0	0	0	0
FI	0	0	0	0	0	0
FR	0	0	0	0	0	0
LT	0	0	0	0	0	0
MT	0	0	0	0	2	2
PL	<i>The MSCA does not possess information on the agreements referred to in Article 40(4) the IUU Regulation</i>					
PT	0	0	0	0	0	0
SE	0	0	0	0	0	0
SI	0	0	0	0	0	0

Implementation of the sanctioning system

Identification of nationals engaged in or supporting IUU fishing within the meaning of Articles 39 and 40

Based on the data presented in Table 30, cases of nationals engaged in or supporting IUU fishing under Articles 39 and 40 were observed in five (5) Member States ¹²⁶. The number of cases is anecdotal in all but Spain. This illustrates the difficulties in identifying nationals engaged in IUU fishing outside EU waters on board vessels without nationality or vessels registered to third countries expressed by national authorities. The higher numbers for Spain may correlate with the particularly complete regulatory framework in place.

The level of sanction of nationals, presented in Table 31, is nearly identical to the number of cases observed, which indicates a very high sanctioning rate when nationals are identified, with the same observation for Spain, which makes an important use of the sanctioning measures provided in Article 40(4) of the IUU Regulation, as illustrated in Table 32.

Table 30 Data provided on cases of nationals falling under Articles 39 and 40 identified as supporting/engaging in IUU fishing – 2017-2021

Number of cases of nationals identified as supporting/engaging in IUU fishing						
MS	2017	2018	2019	2020	2021	Overall
AT	0	0	0	0	0	0
BE	0	0	0	0	0	0
CY	0	0	0	0	0	0
DE	2	2	2	2	2	10
DK	0	0	0	0	0	0
EL	0	0	0	0	0	0
ES	25	12	0	0	0	37
FI	0	0	0	0	1	1
FR	0	0	0	0	0	0
LT	0	0	0	0	0	0
MT	0	0	0	0	2	2
PL	0	0	0	0	0	0
PT	0	0	1	0	0	1
SE ¹²⁷	0	0	0	0	0	0
SI	0	0	0	0	0	0

¹²⁶ DE, ES, FI, MT and PT

¹²⁷ Sweden has not sanctioned any national for infringements against Articles 39 and 40 of the IUU-Regulation during the period indicated in the table. The MSCA indicated that they interpreted the data call as referring exclusively to infringements against articles 39 and 40 of the IUU Regulation, of which no cases have been identified and sanctioned in Sweden. However, the MSCA indicated that during the years 2017-2021 a number of masters and license holders have been identified and sanctioned for serious infringements in accordance with articles 3 and 42 of the IUU Regulation.

Table 31 Data provided on the number of nationals engaged in IUU fishing within the meaning of Article 39 sanctioned - 2017-2021

Number of nationals engaged in IUU fishing sanctioned						
MS	2017	2018	2019	2020	2021	Overall
AT	0	0	0	0	0	0
BE	0	0	0	0	0	0
CY	0	0	0	0	0	0
DE	0	1	2	4	0	7
DK	0	0	0	0	0	0
EL	0	0	0	0	0	0
ES	25	12	0	0	0	37
FI	0	0	0	0	1	1
FR	0	0	0	0	0	0
LT	0	0	0	0	0	0
MT	0	0	0	0	2	2
PL	0	0	0	0	0	0
PT	0	0	0	0	0	0
SE	0	0	0	0	0	0
SI	0	0	0	0	0	0

Table 32 Data on the number of nationals under Articles 39 and 40 refused public funds - 2017-2021

Number of nationals refused public funds						
MS	2017	2018	2019	2020	2021	Overall
AT	0	0	0	0	0	0
BE	0	0	0	0	0	0
CY	0	0	0	0	0	0
DE	0	0	0	0	0	0
DK	0	0	0	0	0	0
EL	0	0	0	0	0	0
ES	0	0	0	35	44	79
FI	0	0	0	0	0	0
FR	0	0	0	0	0	0
LT	0	0	0	0	0	0
MT	0	0	0	0	N/A	0
PL	0	0	0	0	0	0
PT	0	0	0	0	0	0

Number of nationals refused public funds						
MS	2017	2018	2019	2020	2021	Overall
SE	0	0	0	0	0	0
SI	0	0	0	0	0	0

- ☞ In answer to the data call issue to the national authorities within the context of this study, data was provided by **sixteen (16) Member States that indicated that data on the sanctioning of nationals engaged in IUU activities within the specific meaning of Articles 39 and 40 is recorded.**
- ☞ The scarce data available shows that **very few cases of nationals identified as supporting/engaging in IUU fishing within the specific meaning of Articles 39 and 40 were recorded and were sanctioned over the period 2017-2021.** The highest number of cases detected and sanctioned (37) is in Spain. Though this may be due to a higher level of illegal activities due to the importance of the sector in Spain, it may also correlate with the comprehensive regulatory framework in place in that Member State.
- ☞ Only two notifications by nationals (Article 40(1)) and two notifications to the Commission (Article 40(4)) were reported. These were issued only in and by Malta and in 2021. With only one Member State reporting four cases, it is **not clear whether the data on notifications is fully reliable.**

3.2.2 Cooperation with other countries

National competent authorities were asked to provide information on cases of nationals supporting or engaged in IUU fishing subject to mutual assistance (Section 3.2.2.1) and on cases where they exchanged information with other parties (Section 3.2.2.2).

Such information provides indications as to the level of exchange between Member States and other authorities of other countries. This enables to measure the level of implementation of the requirements set in Article 39(2).

3.2.2.1 Cases of nationals supporting or engaging in IUU fishing subject to mutual assistance

In response to the data call, Member States provided the data regarding cases of mutual assistance presented in Table 33.

Table 33 Data provided on the number of cases where mutual assistance was used - 2017-2021

Number of cases where mutual assistance was used						
MS	2017	2018	2019	2020	2021	Overall
AT	0	5	4	4	2	15
BE	0	0	0	2	3	5
CY	0	0	0	0	0	0
DE	13	15	6	28	10	72
DK	0	0	0	0	0	0

Number of cases where mutual assistance was used						
MS	2017	2018	2019	2020	2021	Overall
EL	1	0	0	2	0	3
ES	0	0	0	0	0	0
FI	0	0	0	0	0	0
FR	0	0	0	0	0	0
LT	0	0	0	0	0	0
MT	0	0	0	0	N/A	0
PL ¹²⁸	0	0	0	0	0	0
PT	0	0	1	0	0	1
SE	0	0	0	0	0	0
SI	0	0	0	0	0	0

In addition, six (6) Member States reported cases of nationals supporting or engaging in IUU fishing subject to mutual assistance:

- For **Belgium**, one case involving Senegal and another case involving Switzerland and Saint Vincent and Grenadines;
- For **Estonia**, two cases involving Panama and Saint Kitts and Nevis, concerning the vessels history database and activities. No actual IUU fishing issue was uncovered;
- For **Germany**, ten cases involving Norway, Russia, China and the USA¹²⁹.
- For **Malta**, a 2021 case involved two third country flagged vessels (Tunisia) which were convicted for having carried out IUU fishing activities within the Maltese EEZ. Desk research has uncovered that the court imposed a fine which was paid by a Maltese company. Further investigations were carried out by the Department of Fisheries and Aquaculture and the Police to rule out any possibility of fraud or money-laundering scheme. From the investigations carried out by the DFA there was no proof indicating that this was tantamount to indicate the ‘management [...] of fishing vessels’ which would trigger the application of Article 40(2); Following the judgement, the fishing vessel was duly reported to the GFCM through the Commission for listing on the IUU list.
- For **Portugal**, one (ongoing) case involving Senegal;
- For **Sweden**, one case of exchange between Sweden and the Commission regarding a suspected case of a Swedish vessel fishing without valid authorisation issued by flag state.

The two different set of data are not consistent and can therefore not be considered reliable for the purpose of the analysis.

3.2.2.2 Cases where the Member State exchanged information with other parties

A list of cases where the Member State exchanged information with other Member States authorities, third country authorities, the RFMOs Secretariats and other sources between 2017 and 2021 was

¹²⁸ For Poland, the MSCA indicated that none of the information transmitted through the mutual assistance system had concerned Polish nationals who would be engaged in/supporting IUU fishing.

¹²⁹ The involvement of nationals is not clear, as information only refers to infringements relating to catch certificates and health certificates.

provided by:

- **Austria:** 25 cases, 13 third countries;
- **Belgium:** 2 cases, 2 third countries
- **Croatia:** 973 cases, 12 third countries, 2 Member States; 936 cases concerned exchanges with Slovenia;
- **Estonia:** 2 cases, 2 third countries (as above);
- **Hungary:** 2 cases with EFCA
- **Ireland:** 16 cases with 13 third countries);
- **Italy:** 3 cases with 1 third country;
- **Spain:** 1 case with 1 third country.

These numbers show that the quality of the information provided varies greatly from one Member State to the other. It can therefore not be considered reliable for the purpose of the analysis.

- In answer to the data call, cases regarding nationals supporting or engaging in IUU fishing subject to **mutual assistance** were notified in five Member States¹³⁰ between 2017-2021, with Germany having used mutual assistance the most, in 72 cases overall. When asked to list cases, national authorities of six (6) Member States¹³¹ reported cases. The authorities consulted indicated between one and two cases of mutual assistance, except for Germany (10 cases). With inconsistencies in the Member States having used mutual assistance and inconsistent numbers in the two questions for certain Member States, it is not possible to accurately assess the use of the mutual assistance mechanism, though it seems to be relatively limited.
- Cases where the Member States **exchanged information with other parties** were reported by eight (8) Member States¹³². Cases vary from one to three cases in Belgium, Estonia, Hungary, Italy and Spain to nearly 1000 cases in Croatia. Exchange is reported primarily with third countries, but also with other Member States and EFCA. The inconsistencies observed (e.g. data given by Croatia and Slovenia on their mutual exchanges are very different). It can therefore not be considered reliable for the purpose of the analysis.

¹³⁰ AT, BE, DE, EL and PT.

¹³¹ BE, DE, EE, MT, PT and SE.

¹³² AT, BE, HR, EE, HU, IE, IT and ES.

4 CONCLUSIONS

The assessment of the regulatory frameworks in place in the Member States varies significantly from one Member State to another but shows significant weaknesses in many of them. In addition, procedures in place do not necessarily enable the competent authorities to implement the regulatory requirements specific to nationals in several Member States. Finally, the data provided by the Member States indicate a (nearly) non-existent sanctioning of, on the one hand, nationals having engaged in IUU fishing activities outside EU waters, either operating or on board fishing vessels¹³³ registered in third countries or vessels without nationality and, on the other, nationals supporting IUU fishing activities (as defined in the glossary) wherever their location.

This demonstrates significant difficulties in implementing Articles 39 and 40 of the IUU Regulation. These were also conceded by several national authorities. Accordingly, Section **Error! Reference source not found.** below presents the best practices and opportunities for improvement of the Member States systems. In addition, some actions may also be adopted at EU level to support and facilitate enforcement by the Member States. Recommendations in that sense are provided in Section 4.2.

4.1 RECOMMENDATIONS REGARDING THE IMPLEMENTATION OF ARTICLES 39 AND 40 IN THE MEMBER STATES

The analysis shows on one hand the weaknesses and corresponding opportunities for improvement observed across Member States (Section 4.1.1), and on the other hand the best practices observed in some Member States, which may be a source of inspiration for others (Section 4.1.2) to address such weaknesses.

4.1.1 Opportunities for improvement

Member States authorities consulted in the context of this study were asked to identify opportunities for improvement of their national enforcement systems as regards categories of nationals involved in IUU fishing outside EU waters, either operating or on board, third country fishing vessels or stateless vessels and in support of IUU fishing as defined in the glossary. The input provided by nine (9) Member States is summarised in Table 34 below. Following that, the section provides for some recommendations that can be applied across the board to all Member States.

Table 34 Opportunities for improvements

MS	Opportunities for improvements
BE	Flanders is waiting impatiently to introduce a risk-based system . This way, more controls on vessels or countries on the ‘yellow’ level of risks of the IUU, or on specific sorts of fishes, or depending on the economic value of shipments will be carried out. Currently, this is still in a starter phase. It also has not been decided yet whether this will only be a Flemish initiative or whether cooperation with the federal partners will be included.
BG	The lack of explicit provisions in the national legal framework and/or additional documents/initiatives is considered an impediment to the actual implementation of the rules applying to nationals.
FI	Means to establish the link between the geographic location of the activity and the persons taking part in the activity should be improved to ensure the proper implementation of the obligations on nationals.
HR	In practice, only the Misdemeanour Courts in larger maritime cities like Rijeka and Split have special departments for misdemeanours committed by supporting and engaging in IUU fishing. Other

¹³³ As defined in the Glossary.

MS	Opportunities for improvements
	<p>courts deal with these cases along with all other misdemeanours and have no trained judges for these specific types of the offences. Therefore, a proper training of at least one judge in the smaller courts would greatly improve the work of those smaller courts.</p> <p>Moreover, while all competent State Administration Bodies can issue misdemeanour warrant and start a procedure against the perpetrator, the officials dealing with these misdemeanours are not as qualified as the State Attorneys dealing with illegal fishing when it is treated as a criminal offence. Here as well, training of designated officials would enable better implementation of the sanctioning system related specifically to IUU fishing.</p>
HU	Sanctioning of nationals involved in IUU fishing fully and solely rely on notification by the authorities of other countries discovering the illegal activity.
LT	<p>Relevant procedures and legislation need to be updated. In particular, the need to update descriptors of various procedures relating to inspections (that are also aimed at detecting and preventing IUU fishing) constantly arises as a result of continuous internal and external audits of Competent Authorities. As a consequence, not all potential cases are covered by the existing legislation and procedures.</p> <p>In addition, the Rules on the administration of the Lithuanian Fisheries Sector Operational Program cover the 2014-2020 period, while the Rules for the period commencing in 2021 are still under preparation.</p> <p>Finally, competent authorities should pay more attention to maintaining the “institutional memory”.</p>
LV	While there is no practical experience in dealing with IUU fishing cases, there are uncertainties on how to implement certain provisions (e.g. to identify nationals supporting or engaged in IUU fishing, especially on third country vessels).
MT	<p>Malta does not carry out further investigations regarding nationals involved once a conviction is handed down. This may weaken the investigations which may be required for the purpose of Articles 39 and 40 of the IUU Regulation.</p> <p>A set of positively deterrent provisions, measures and cooperation routes in support of application of Articles 39 and 40 within the domestic fisheries laws would highly assist the DFA. In this regard, amendments to the Act and its subsidiary legislation are currently in the pipeline. These will repeal the Enforcement of Sea Fishing Conventions Order and parts of the Fisheries Conservation and Management Act, with the aim of making the laws relating to the IUU Regulation and its enforcement and sanctioning more coherent and unequivocal, and address any lacunae with regard to Article 39 and 40. The amendment will also aim to endow the administrative authorities with wider enforcement and sanctioning powers, thus attempting to avoid lengthy proceedings before the Criminal Courts. It is estimated that the new law and its relative regulations will come into force within the next six to nine months.</p>
RO	The provisions of Articles 39 and 40 of IUU Regulation are in the process of being implemented during the revision of the fishing legislation that was suggested by ANPA.

While these elements are specific to each of these Member States, they also reflect to a certain extent the observations stemming from the findings of the present study. Weaknesses have been mainly identified in relation to:

- ***Incomplete or unsatisfactory national legal framework.***

As pointed out in Section 3.1 above, the coverage of Articles 39 and 40 is not satisfactory, given that there are significant gaps in a number of Member States. **Where such gaps have been identified, the necessary legislation should be adopted to fill them** so that all elements encompassed in Articles 39 and 40 of the IUU Regulation are reflected into the national legal order and, therefore, implemented and

enforced.

In particular, with regard to Member States invoking the direct applicability of the Regulation, as pointed out above, it is necessary to further specify the relevant obligations, in particular to adopt corresponding procedures and sanctions to ensure proper implementation. A correlation was observed between a comprehensive regulatory framework and a higher sanctioning rate.

At this stage it should be noted that, according to public international law, states have prescriptive jurisdiction to enact laws applicable to their nationals, as well as enforcement jurisdiction to implement those laws against their nationals. Further, in line with the ‘active personality’ principle, a state may exercise extraterritorial jurisdiction over the conduct of its nationals regardless of their territorial location.¹³⁴ As a result, Member States are empowered both under international law and European law, in this case the IUU Regulation, to exercise their jurisdiction over their nationals, even if they are on board vessels registered in third countries, vessels without nationality or within the jurisdiction of another state.

In addition, the legislation is particularly scarce in landlocked countries. The mere fact that a Member State might not have any vessels flying its flag does not preclude that its nationals are engaging or supporting IUU activities either through employment in vessels registered in another Member State or third country or through activities that support IUU fishing (as defined in the glossary).

For the purposes of legal certainty and in order to ensure the proper implementation of Articles 39 and 40, and in particular to take ‘necessary action’ under Article 39(3), Member States need to be able to exercise control **outside** national waters and national vessels. Where this is not the case, the legislation should be amended to allow such controls. It is crucial to ensure that the relevant legislation and procedures are also in place in these Member States.

- ***Difficulties in identifying specific categories of nationals (as defined in the glossary) engaged in or supporting IUU fishing under Articles 39 and 40***

This is a key difficulty identified throughout the study and stems mainly from a lack of **adequate inspection and control systems**. As explained in Section 3.1.3.3 above, national authorities reported obstacles in initiating procedures or sanctioning nationals engaged in IUU fishing, either because they did not have the means to identify nationals engaged in IUU fishing abroad, or because of a lack of internal coordination. Section 3.1.3.4 also indicates that the necessary procedures to implement Articles 39 and 40 are only scarcely in place in the Member States. Where procedures are in place, they were indicated as a good practice to ensure implementation, and in particular to facilitate the identification and the sanctioning of the relevant infringements.

Well-developed procedures, potentially based on the best practices described below, should therefore be adopted in Member States where they are lacking. They should in particular include a clear distribution of the roles among national authorities at national level, but also establish points of contacts and channels of communication for cooperation with other Member States and third countries.

- ***Lack of cooperation among enforcement authorities and with relevant stakeholders:***

From the information contained in this report, it is evident that the channels of communication between the different relevant authorities of Member States are, where existent, insufficient.

In order to comply with **Article 39(2)**, Member States need to **cooperate** amongst themselves and with third countries as well as to take all appropriate measures to identify nationals supporting or having engaged in IUU fishing activities outside EU waters either operating or on board stateless vessels or third country-flagged vessels. This means that Member States need to have detailed procedures in place so as to be in the position to identify their nationals. These procedures should enhance the flow of information between the different competent authorities, including within each Member State by

¹³⁴ James Crawford, Brownlie’s Principles of Public International Law (9th edn, OUP 2019) 440, 443-444.

combining input and data from the various Ministries responsible for economic affairs/taxation on nationals declaring economic activities related to fisheries in third countries. This cooperation could for instance take the form of an inter-agency Memorandum of Understanding, under which the different authorities dealing with fishing activities (fisheries, tax, transport, customs and environmental authorities) would exchange information on EU nationals.

Another way of establishing such cooperation would be to set up national databases where all national authorities could include information on nationals operating or working on board vessels (whichever flag they are flying), have financial connections to fishing vessels flagged to third countries/processing plants in the EU and beyond or provide services to fishing vessels registered in any country. A good example of such a database, which can be adapted for the purposes of this study, is the ones created by Member States in relation to beneficial ownership under the Anti-Money Laundering Directive.

In terms of collaboration among countries and with international authorities, a concrete example is the operations Sparrow I, II and Banderas that were led by Spain and related to the prosecution of IUU fishing activities in the area of the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR). These operations, which resulted in combined penalties of more than 15 million euros for Spanish nationals, were supported by enormous financial, human and technical effort involving the participation of various administrative and policing bodies, as well as international cooperation from third countries, and from Interpol.

More specifically when it comes to identifying forms of *support* to IUU fishing within the meaning of **Article 39(1)**, cooperation is also relevant as support covers a number of different scenarios. It is **necessary to reach out to the relevant national stakeholders**, and in particular insurance companies and financial services providers and human resources companies based in the territory of the Member States that provide services to IUU vessels. The same applies to operators managing third country registers or owners of processing plants in third countries, to inform them about their obligations. Additional procedures may also be put in place to ensure they respect their obligations under the IUU Regulation, as provided under Best Practices below. A few other suggestions are also listed below.

The **marine insurance industry** can play a crucial role in the effort to tackle IUU fishing. Insurance providers can introduce transparency requirements, including the exclusion of unregulated vessels and to those that switch off vessel tracking systems¹³⁵. By refusing to insure vessels that are engaged in or support IUU fishing, they will help to reduce the financial incentives and increase the financial risk for illegal fishing activities¹³⁶. The following recommendations could be considered useful for this effort¹³⁷:

- When determining vessel eligibility for coverage, insurers should consult all RFMO IUU vessel lists and the INTERPOL Purple Notice lists; the Combined IUU Vessel List consolidates these lists and crucially provides the most recent known information about the vessels. If a vessel currently appears on any of these lists, insurance coverage should not be granted.
- If insurers registered in the EU are found to be in breach of Articles 44 and 42(1)(b) of the EU IUU Regulation, Member States should start an immediate investigation and take immediate enforcement measures.
- When determining vessel eligibility for coverage, insurers could consult the EU's list of "non-cooperating third countries". These countries have been recognized for their failed cooperation with efforts to deter and eliminate IUU fishing. If a vessel is registered under the flag of a country currently on this list, insurers could consider refusing coverage or charging higher premiums to deter registration under these flags.

¹³⁵ (2021) OCEANA, Marine insurance companies can be key actors in the fight against IUU fishing. Available at: <https://eu-ropce.oceana.org/en/blog/marine-insurance-companies-can-be-key-actors-fight-against-iuu-fishing>.

¹³⁶ (2022) Chip Cunliffe, Pêche illégale : comment le secteur de l'assurance peut aider à y mettre fin. Available at: <https://www.axa.com/fr/insights/peche-illegale-comment-le-secteur-de-l-assurance-peut-aider-a-y-mettre-fin>.

¹³⁷ (2016) Miller, Dana & Sumaila, Rashid & Copeland, Duncan & Zeller, Dirk & Soyer, Baris & Nikaki, Theodora & Leloudas, George & Fjellberg, Stig & Singleton, Rebecca & Pauly, Daniel. Cutting a lifeline to maritime crime: Marine insurance and IUU fishing. *Frontiers in Ecology and the Environment*. Available at: https://www.researchgate.net/publication/303828088_Cutting_a_lifeline_to_maritime_crime_Marine_insurance_and_IUU_fishing.

- Insurers should consider mandating a requirement for all vessels ≥ 100 GT to be registered with a permanently assigned IMO ship identification number. In addition, insurers should require that vessels ≥ 300 GT be equipped with and actively use Automatic Identification System (AIS) vessel tracking technology. Both measures would improve transparency and safety within the global fishing sector.
- For fishing vessels required by law to have insurance, once the PSMA is in force, inspections carried out under this Agreement could include checking for required insurance documentation.
- In the interest of transparency within both the marine insurance and fisheries sectors, providers of Protection and Indemnity (P&I) insurance could be encouraged to voluntarily make information relating to insurance coverage publicly available.
- Reinsurers of insurers that provide coverage to fishing vessels could require that the recommendations listed above are implemented by the insurers they insure. Similarly, insurers' organizations should encourage members to implement these recommendations.

- **Lack of expertise in fisheries**

The data collected under this study indicates that **enforcement authorities**, even when they have jurisdiction, would not necessarily enforce the requirements of Articles 39 and 40 due to a lack of understanding of the particularities and complexity of IUU fishing activities and their overarching nature. It is therefore necessary to ensure **sufficient training** regarding the scope and obligations stemming from the Regulation is given to enforcement authorities so that they can have a good understanding of the types of engagement and support that EU nationals can have with regard to IUU fishing but also to ensure their knowledge of the relevant procedures in place at a national level.

4.1.2 Best practices relating to the enforcement of the IUU Regulation

The national authorities consulted in the context of this study have been asked to provide best practices with regard to the regulatory frameworks and sanctioning systems in their Member States regarding nationals engaged or supporting IUU fishing. Nine (9) Member States¹³⁸ reported what they consider good practices in relation to the enforcement of Articles 39 and 40 of the IUU Regulation. These practices are presented in Table 35 below.

Table 35 Best practices

MS	Relating to the enforcement of the IUU
BE	Flemish inspectors follow the EFCA training and are hence in contact with their EU colleagues, where they can exchange any potential best practices .
DK	The Danish Fisheries Agency drafted the ' Enforcement Handbook ' and made it available to its inspectors and other administrative staff in 2020. The handbook consists of internal guidelines for the enforcement and administrative sanctioning. The inspectors are organised in decentralised units and the handbook is thus an important instrument in assuring a consistent practice. The handbook is not specifically aimed at activities regulated by the IUU Regulation. The Agency does, however, agree that the objective of ensuring consistency in the practice of inspectors and other staff also provides best practices relating to the enforcement of the IUU Regulation.
EE	Estonian authorities rely on direct communication with the relevant authorities in other countries on ad hoc basis. They consider direct communication to be the most expedient solution to obtain relevant information regarding national offenders. There are however only very few cases in practice that need to be investigated.

¹³⁸ BE, DK, EE, HR, HU, IT, LT, RO and SI.

MS	Relating to the enforcement of the IUU
HR	The fact that the European Border and Coast Guard Agency (Frontex) closely cooperates with EFCA and sends relevant information to the Croatian fisheries inspectors and other authorised persons on the detected irregularities is considered beneficial to the national enforcement system.
HU	<p>Best practices in Hungary can be found regarding the control and sanctioning of IUU fishing activities on inland waters. The liability system for illegal and/or unauthorised fishing carried out in national inland waters consist of administrative, criminal and civil liability.</p> <p>Furthermore, Article 246 of the Criminal Code applies to any perpetrators and accomplices of poaching fish in the territory of Hungary (and to nationals abroad) and the damage caused by the breach of law has to be compensated in accordance with Act V of 2013 on the Civil Code.</p> <p>In Hungary, the local fish guards, inspectors and the water police monitor compliance with the rules on fishing. In discovering illegal, unauthorised fishing in the territory of Hungary, local fish guards employed by fishing water operators, inspectors of the fisheries authorities (government offices and the NÉBIH) effectively cooperate with the water police.</p>
IT	<p>Port Authority officials have various levels of specialisation in national, European and international procedures in the fisheries sector, which enables them to have trained personnel available for various types of needs. Furthermore, Port Authority officials undertake annual academic and specialised training courses, also in cooperation with EFCA.</p> <p>In addition, although not publishable, the guidelines mentioned in Section 2.3.3.1 can be considered as a good practice.</p>
LT	<p>Among examples of best practices relating to the enforcement of the IUU Regulation, representatives of the competent authority emphasised cooperation: both interinstitutional and international:</p> <p>As regards interinstitutional cooperation, the Fisheries Service cooperates with Customs Authorities, which is also competent in fighting IUU fishing, by exchanging information, carrying out joint capacity building projects and co-organising events. In addition, an area in the Klaipėda Port for joint activities with State Border Guard Service is expected to be established in the near future, in addition to joint inspection and surveillance actions.</p> <p>As regards international cooperation, joint inspections with competent authorities of other EU Member States and third countries (in particular, Canada) are conducted. The Fisheries Service actively participates in activities of EFCA. Moreover, exchange of practice is constantly conducted with neighbouring EU Member States (in particular, Latvia, Estonia, Poland).</p>
RO	Since 2019, the National Agency for Fiscal Administration (NAFA) is involved in the Multipurpose Maritime Operation (MMO) operations coordinated by Frontex and performs surveillance missions, control missions, individually through the inspectors and in collaboration with other authorities with responsibilities in the control and surveillance of the marine waters.
SI	<p>The small territory of sea under Slovenian jurisdiction and the small number of active fishermen provide the authorities with opportunity to be in constant personal contacts with all active fishermen.</p> <p>This and the fact that Slovenia also has a concessionary responsible for informing, educating and advising the fishers, results in their good overall awareness of relevant rules and policies.</p>

These practices refer mainly to:

- **exchange of information and cooperation** among national authorities, with authorities of different countries and with EFCA; this may support in the identification of nationals engaged or supporting IUU fishing activities;
- the **development of guidelines and training**, which aims at increasing awareness of the authorities and the establishment of detailed procedures.

In addition to these selected practices, some countries have a more performing enforcement system in

one area or another, as presented in Section 3 above. In that regard, the situation of Spain is particularly relevant, as it shows both a comprehensive regulatory framework and concrete results in terms of identification and sanctioning of nationals engaged in or supporting IUU fishing activities.

Box 1 Example of good practices from Spain¹³⁹

- **Data collection:** specific department is in charge of analysing, processing and managing data (general information, alerts, reports) related to the eventual participation of Spanish nationals in IUU fishing.
- **Exchange of information:** a network for constant exchange of information is in place, composed of more than 23 entities, public and private, at national, European and international level.
- **Wide competency of the competent authority:** The central authority endeavours to obtain information by monitoring the Spanish and international media, scanning the internet, as well as investigating individual complaints.
- **Qualification of inspectors:** Spain has a highly specialised team of enforcement civil servants. A demanding selection test (physical and theoretical) is in place to be part of this team of officers. They are, in addition, under continuous professional development.
- **Tools available to the inspectorate:** 1. Individual mobile computer equipment that allows access to databases (recently modernised). 2. The inspectorate holds a quality certification, ISO 9001:2015. This certified system, reviewed on yearly bases, evaluates 3 main areas: Control: Fishing permits management and tracking fishing quotas (electronic journal, location, etc); Fishing inspection resources: human and material; IUU intelligence Unit.

Some of these instruments may also be taken into consideration by other Member States to address their weaknesses, especially in the design of procedures and the determination of the roles and competencies of the relevant authorities.

On the question of the identification of support to IUU, one best practice which has been developed recently by UNEP is also worth mentioning. It seeks to avoid involvement of insurers with IUU fishing vessels.

UNEP Finance Initiative¹⁴⁰

Principles for Sustainable Insurance

- › Principle 1: We will embed in our decision-making environmental, social and governance issues relevant to our insurance business.
- › Principle 2: We will work together with our clients and business partners to raise awareness of environmental, social, and governance issues, manage risk and develop solutions.
- › Principle 3: We will work together with governments, regulators and other key stakeholders to promote widespread action across society on environmental, social and governance issues.
- › Principle 4: We will demonstrate accountability and transparency in regularly disclosing publicly our progress in implementing the Principles.

National authorities could encourage insurers to adhere to such an initiative as part of their obligation to take action under Article 39(3) of the IUU Regulation.

4.2 RECOMMENDATIONS FOR AN EU INTERVENTION

In addition to recommendations addressed to Member States, a few suggestions were made by Member States competent authorities to improve implementation in the Member States, and included:

- The adoption of **explanatory information and guidance** for better practical implementation

¹³⁹ Based on the interview summary presented in Annex I.

¹⁴⁰ (2016) OECD-FAO Conference & Workshop: OCEANA presentation, Marine insurance and illegal, unreported and unregulated fishing.

of the rules¹⁴¹ (e.g. on the scope of the concept of ‘nationals’, as provided in the IUU Regulation, and especially, on the inclusion of legal persons within this scope). Along the same lines, the organisation of **seminars /trainings** for Member States authorities was also suggested¹⁴².

- The set-up of an **EU coordination service** able to receive and distribute the information related to the work of each Member State on IUU fishing, e.g. in the form of a joint database: data on fishing authorisations, catch controls, punishments, fishing disqualifications, etc, would be shared and easily accessible, and avoid difficulties sometimes experienced in bilateral communications. It was suggested that EFCA could be the authority in charge to gather, request and centralise this information in order to properly inform all the Member States and increase efficiency in the fight against IUU fishing¹⁴³.
- The creation of a **common registration instrument of EU citizens engaged in fishing activities**, with binding obligations for Member States by virtue of EU Regulations and monitored by an EU Agency (EFCA or other).

While some of these suggestions may exceed the competence of the Commission or not be feasible from a logistic point of view, the development of guidance, especially in relation to the scope of ‘support to IUU activities’ could be considered and would provide a significant improvement in the comprehension of their obligations by the Member States under Articles 39 and 40 of the IUU Regulation.

¹⁴¹ CY.

¹⁴² LV.

¹⁴³ ES, LV.

ANNEX I: GLOSSARY

Common Fisheries Policy (CFP):	Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC, OJ L 354, 28.12.2013, p. 22–61. The consolidated version of the Regulation is available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02013R1380-20190814 .
Community IUU vessel list	Pursuant to Article 27 (1) of IUU Regulation, the Community IUU vessel list shall be established by the Commission and shall include the fishing vessels in relation to which, further to the measures taken regarding alleged and presumed IUU fishing ¹⁴⁴ , the information obtained in accordance with the Regulation establishes that they are engaged in IUU fishing and whose flag States have not complied with the official requests in response to such IUU fishing ¹⁴⁵ . The current EU IUU vessel list is available in the Annex of the consolidated version of Regulation (EU) No 468/2010 available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02010R0468-20210716 .
Fishery products	Pursuant to Article 2 (8) of IUU Regulation, fishery products mean any products which fall under Chapter 03 and Tariff headings 1604 and 1605 of the Combined Nomenclature established by Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, with the exception of the products listed in Annex I of IUU Regulation. Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff is available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ%3AL%3A1987%3A256%3ATOC .
Fishing vessel	Pursuant to Article 2 (5) of IUU Regulation, fishing vessel means any vessel of any size used or intended for use for the purposes of commercial exploitation of fishery resources, including support ships, fish processing vessels, vessels engaged in transshipment and carrier vessels equipped for the transportation of fishery products, except container vessels.
High seas	Pursuant to Article 2 (22) of IUU Regulation, high seas means all the part of the sea as defined in Article 86 of the United Nations Convention of the Law of the Sea (UNCLOS). UNCLOS is available at: https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf .
IUU Regulation	Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999, OJ L 286, 29.10.2008, p. 1–32. The consolidated version of the Regulation is available at: https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32008R1005 .
Illegal fishing	Pursuant to Article 2 (2) of IUU Regulation, illegal fishing means fishing activities:

¹⁴⁴ Article 25 and 26 of IUU Regulation.

¹⁴⁵ As provided in Article 26(2)(b) and (c) and Article 26(3)(b) and (c) of IUU Regulation.

	<p>a. conducted by national or foreign fishing vessels in maritime waters under the jurisdiction of a State, without the permission of that State, or in contravention of its laws and regulations;</p> <p>b. conducted by fishing vessels flying the flag of States that are contracting parties to a relevant regional fisheries management organisation, but which operate in contravention of the conservation and management measures adopted by that organisation and by which those States are bound, or of relevant provisions of the applicable international law; or</p> <p>c. conducted by fishing vessels in violation of national laws or international obligations, including those undertaken by cooperating States to a relevant regional fisheries management organisation.</p>
Jurisdiction	<p>Jurisdiction encompasses:</p> <p>1: the power, right, or authority to interpret and apply the law (adjudicative jurisdiction)</p> <p>2a: the authority of a sovereign power to govern or legislate (prescriptive jurisdiction)</p> <p>b: the power or right to exercise authority (enforcement jurisdiction)</p> <p>3: the limits or territory within which authority may be exercised.</p> <p>NB: Enforcement jurisdiction, which refers to a state's authority to ensure compliance with its laws, is of particular focus within the context of this study.</p>
Nationals	Pursuant to Article 39 (1) of the IUU Regulation, nationals mean the natural and legal persons subject to the jurisdiction of Member States.
Operator	Pursuant to Article 4(19) of the Control Regulation, 'operator' means the natural or legal person who operates or holds any undertaking carrying out any of the activities related to any stage of production, processing, marketing, distribution and retail chains of fisheries and aquaculture products.
Support to IUU	<p>Pursuant to Article 39 (1) of IUU Regulation, nationals support or engage in IUU fishing by, inter alia, working on board or acting as operators or beneficial owners of fishing vessels included in the Community IUU vessel list. Some other examples of support include:</p> <ul style="list-style-type: none"> ■ Masters/crew EU nationals on third country vessels ■ Owners/operators of third country vessels ■ Owners of processing plants in third countries ■ Nationals (legal/natural persons) in EU managing third country registers ■ Insurers of EU IUU listed vessels ■ Financial services providers (loans) to EU IUU listed vessels ■ HR companies (recruiting companies) ■ Third country supply vessels owned/controlled by EU nationals supporting/providing services to EU IUU listed vessels.
Transshipment	Pursuant to Article 2 (10) of IUU Regulation, transshipment means the unloading of all or any fishery products on board a fishing vessel to another fishing vessel.

Unreported fishing	<p>Pursuant to Article 2 (3) of IUU Regulation, unreported fishing means fishing activities:</p> <ul style="list-style-type: none"> a. which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; or b. which have been undertaken in the area of competence of a relevant regional fisheries management organisation and have not been reported, or have been misreported, in contravention of the reporting procedures of that organisation.
Unregulated fishing :	<p>Pursuant to Article 2 (4) of IUU Regulation, unregulated fishing means fishing activities:</p> <ul style="list-style-type: none"> a. conducted in the area of application of a relevant regional fisheries management organisation by fishing vessels without nationality, by fishing vessels flying the flag of a State not party to that organisation or by any other fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organisation; or b. conducted in areas or for fish stocks in relation to which there are no applicable conservation or management measures by fishing vessels in a manner that is not consistent with State responsibilities for the conservation of living marine resources under international law.

ANNEX II: BIBLIOGRAPHY

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