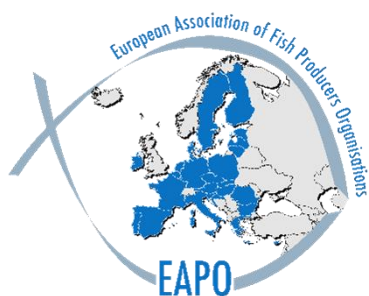


**European Association of Fish Producers Organisations**

**Association Européenne des Organisations de Producteurs dans le secteur de la pêche**



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**Letter by e-mail attachment to:**

**Ms. Charlina VITCHEVA:** Directorate-General for Maritime Affairs and Fisheries  
([Charlina.Vitcheva@ec.europa.eu](mailto:Charlina.Vitcheva@ec.europa.eu))

**CC:**

- Mr. Fabrizio Donatella: Head of Unit C, DG Mare ([Fabrizio.Donatella@ec.europa.eu](mailto:Fabrizio.Donatella@ec.europa.eu))
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EAPO23-48

EU Transparency Register number: 46491656228-65

Oostende, 4 August 2023

Dear Ms. Vitcheva,

**Subject: ICES advice on Vulnerable Marine Ecosystems**

On the 14<sup>th</sup> of December 2016, the Council and the European Parliament voted in favour of Regulation 2016/2336 establishing specific conditions for fishing for deep-sea stocks in the North East Atlantic. This new regulation provided specific requirements for the protection of Vulnerable Marine Ecosystems below 400 metres.

ICES, as the Commission's scientific body, was "to carry out an annual assessment of areas where VMEs are known to occur or are likely to occur in EU waters". Following this assessment, the Commission would draft a delegated act listing all areas that needed protection and where bottom contacting gear would be prohibited.

The first iteration of this process took place in 2022, with ICES providing a list of 87 areas. These areas were included in the Commission's Implementing Regulation 2022/1614 that entered into force early October 2022.

During this initial process, the EU fishing industry had listed 4 major concerns:

- A lack of proportionality, with the selection of option 2.1 which increases the economic impacts, whereas option 2.2 would have limited them.
- A non-respect of the legal basis, caused by the inclusion of buffer zones in the Implementing Regulation, whereas no VMEs are known to occur inside those zone.
- An injustice for netters and longliners, which are prohibited to fish inside the specific trawling buffer zones.
- A non-equality of treatment, represented by smaller zones being closed in Northern Waters, and larger ones in Southern Waters.

Following the publication of a new ICES advice in April 2023 an EAPO member, the Killybegs Fishermen Organisation, conducted a thorough assessment of ICES's VME methodology<sup>1</sup> and identified 9 fundamental shortcomings. This assessment was carried out using data from ICES division 6.a (West of Ireland and Scotland).

1. A lack of transparency in the assessment process on which the advice is based.
2. Errors in ICES VME Database and VME Map Portal.
3. Lack of support for the current delineation of five out of nine polygons in the study area.
4. Inconsistencies between the VME Index layers in the 2021 and 2023 VME advice.
5. Inappropriate definition of the depth zones that are the foundation of the assessment.
6. Inappropriate delineation of VME Habitats at the c-square resolution level.
7. Potential confounding of the VME Confidence Index.
8. Questionable exclusion of the VME Confidence Index.
9. Biasing of the VME Index due to the exclusion of absence data.

EAPO, following KFO's thorough and in-depth analysis, recommends the following steps to be taken to ensure VMEs are effectively protected using best available science:

- To be in line with ICES's Guide to ICES advisory framework and principles 100% of the data that has been used by ICES to issue their advice should be available on the ICES data portal.
- Similar work should be carried out for other areas not included in KFO's analysis (Celtic Sea, Bay of Biscay, and Cantabrian Sea).
- ICES should investigate the reported errors and confirm that the shortcomings identified by KFO will be addressed.
- Updated advice taking into account the issues identified above should be reissued without delay.
- The Commission, in the meantime, should reopen the areas that have been wrongly identified as VMEs or as potential VMEs for bottom contacting gears.

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<sup>1</sup> [https://kfo.ie/wp-content/uploads/2023/06/KFO\\_review\\_of\\_VME\\_advice\\_and\\_closures\\_21062023.pdf](https://kfo.ie/wp-content/uploads/2023/06/KFO_review_of_VME_advice_and_closures_21062023.pdf)

Representatives of EAPO remain at your disposal to meet and discuss this important matter at any convenient time for you and/or members of your team.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Esben Sverdrup-Jensen'. The signature is written in a cursive style with a long horizontal stroke at the end.

Esben Sverdrup-Jensen

President of the European Association of fish Producer Organisations