



Killybegs Fishermen's  
ORGANISATION LTD.



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**Ms Charlina VITCHEVA**

Director-General

Directorate-General for Maritime Affairs and Fisheries

European Commission

1049 BRUSSELS

Belgium

EAPO23-52

4 September 2023

Dear Ms. Vitcheva

**Subject: Your Letter to EAPO on Vulnerable Marine Ecosystems**

The European Association of Fish Producers Organisations (EAPO) and Killybegs Fishermen's Organisation (KFO) are jointly writing in relation to your letter, dated 21st August 2023, which you sent to in response to the EAPO letter regarding the significant issues and errors identified in the ICES advice on Vulnerable Marine Ecosystems. The text of your letter was remarkably similar to an email received by the Killybegs Fishermen's Organisation (KFO) from Fabrizio Donatella on the 4<sup>th</sup> July 2023 and unfortunately contained the same misinterpretation of the role of Observers in the ICES Advice process and also misinformation about the input opportunities afforded to stakeholders in the process. We would respectfully request you correct both the misinterpretation and the misinformation. To facilitate you in this correction, we are setting out the factual situation in relations to status of observers and input opportunities afforded to stakeholders in the process.

According to ICES policy, Observers are not full active participants in ICES Advice Drafting Groups (ADGs) and are actually constrained in the contribution they can make to ADG discussions. Observers are only afforded the floor when deemed appropriate by the chair of the ADG, which is usually to receive clarification on certain matters which are being discussed. An Observer would not be afforded the opportunity to present a document such as the KFO report or a new analysis to an ADG as this is not part of the established ICES process.

Undertaking quality control of the data and ensuring it is correct and suitable for use in an appropriate assessment model is the role of the Expert Working Group, which in this case was Working Group on Deep-water Ecology (WGDEC). It is this stage of the process, which is largely restricted to the scientific experts, that should have identified the errors and recognised the issues with the assessment methodology. As noted in the KFO report more quality control and transparency is required at this stage to ensure valid assessment outputs on which to base advice.

You are correct that a KFO employee was in attendance as an Observer, on behalf of the NWWAC, at the November/December 2022 ADGVME but only for part of the first day of the March 2023 ADGVME due the late scheduling of that meeting and previous commitments to another ICES Working Group. A representative from DGMARE was also present at both ADGVMEs and they will be aware that all participants in ICES meetings, regardless of their designated role, agree to observe the *Chatham House Rule*, which means that they may share information from the meeting discussions but may not make references to the contributions of specific members or observers. As the KFO employee adheres to this policy, we are not aware of who said what at the ADGVME or who raised what issues.

A number of the issues outlined in the KFO report were indeed raised in the Nov/Dec 2022 ADGVME, though as no final assessment was presented the majority of that ADG was focussed on how to present the advice and the appearance of the advice sheets. The ADG did not involve interrogating the basis of the assessment or the raw data as this was not available or open to scrutiny. As outlined in the KFO report, there is a general lack of transparency surrounding the data going into the VME assessment, which is one of the contributing factors to the significant number of errors and issues identified in the KFO report.

We also note your reference to the Benchmark Workshop on the Occurrence and Protection of VMEs (WKVMEBM), which was held in April 2022 and that the errors and issues in the report could also have been raised there. You will note from the participants list in the resulting report<sup>1</sup> that there were no industry or NGO stakeholders involved in that Benchmark Workshop and the only non-scientific participant was in fact an employee of DGMARE, who also attended the ADGVME. This was not due to a lack of interest on the behalf of the stakeholders (industry and NGO) but due to the fact that neither was aware that there was in fact a benchmark meeting taking place as no notification was issued to stakeholders by ICES or by DGMARE. We have also confirmed with the NWWAC and the PelAC that neither Advisory Council received notification, from ICES or DGMARE, of the benchmark meeting, which is indicative of the lack of impetus to engage effectively with stakeholders. It is not possible for stakeholders to have an input into the VME process if they are not informed that meetings such as the benchmark workshop are taking place or invited.

The only fora for stakeholder input into the VME Advice process was in fact the two information meetings hosted by DGMARE, on the 26<sup>th</sup> July 2022 and the 25<sup>th</sup> April 2023, at which ICES presented their advice. At these meetings many questions were raised by stakeholders about the validity of the assessment, the lack of transparency of the data and the inappropriate spatial scale at which the assessment input data were analysed. The answers, when provided, from both DGMARE and ICES failed to provide clarity or properly acknowledge the limitations of the advice.

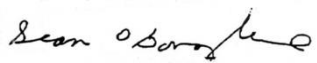
We agree that scientific rigour should be the foremost consideration in the identification and protection of VMEs and this is central to the focus of the KFO report. The ICES VME Advice is confounded by input data errors and inappropriate definition of the depth zones that are the foundation of the assessment. This had led to area closures being specified in the September 2022 Implementing Regulation (2022/1614), which have no scientific basis and confer no protection on VMEs. Further the VME assessment approach actually undermines the protection of VMEs by not prioritising the protection of known and proven VME Habitats. All of these issues are comprehensively dealt with in the KFO report. For ease of reference, it is worth highlighting the nine key issues detailed in the KFO report:

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.

We look forward to the ICES expert review of the content of the KFO report and their revision of the ICES VME Advice when it is issued. We also look forward to the presentation and discussion of the STECF review of the VMEs on the 26<sup>th</sup> September. We trust that DGMARE will also explain how and when they will revise the closures of the incorrectly delineated VME polygons that have caused significant disruption to the industry whilst conferring no protection on VMEs.

Finally, We wish to reiterate our request to correct the misinterpretation of the role of Observers in ICES Advice process and also the misinformation about the input opportunities afforded to stakeholders in the process in your letter of 21<sup>st</sup> August 2023.

Yours sincerely



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Sean O Donoghue

*CEO Killybegs Fishermen's Organisation Ltd*



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Esben Sverdrup-Jensen

*President of the European Association of fish  
Producer Organisations (EAPO)*