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The Necessity of Protecting Fisheries Observers at Sea

An independent Case Study of European Union commercial fisheries monitoring and oversight highlighting the need for increased Fisheries Observer protections

October 2023

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Human rights apply at sea,
as they do on land.

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Front Photo Credit: Pedro Costa 2023

Acronyms

APO	Association for Professional Observers (US) ¹
APOAM	Portuguese Association of Marine Environment Observers (Portugal) ²
APOCM	Association of Professional Marine Scientific Observers (Spain) ³
DG MARE	Directorate-General for Maritime Affairs and Fisheries (EC) ⁴
DGRM	Directorate-General for Natural Resources, Safety and Maritime Services
DPE	Electronic Fishing Journal (Portugal) ⁵
EJF	Environmental Justice Foundation ⁶
EMS	Electronic Monitoring System ⁷
EC	European Commission
EU	European Union
Fisheries observer:	“An ‘observer’ is a person who is authorised by a regulatory authority to collect information in the field (either at sea or on shore) to support sustainable aquatic resource management. The observer must be financially independent of the industry being monitored (IOBR, CCROP-SR).” ⁸
FOC	Flag of Convenience ⁹
FV	Fishing Vessel
HRAS	Human Rights at Sea ¹⁰
ILO	International Labour Organisation
MARPOL	International Convention for the Prevention of Pollution from Ships (1983) ¹¹
NAFO	Northwest Atlantic Fisheries Organisation ¹²
RFMO	Regional fisheries management organisations ¹³
US	United States
VMS	Vessel Monitoring System ¹⁴

1 <https://www.apo-observers.org/>

2 <https://www.apoam.pt/>

3 https://www.linkedin.com/posts/apocm-observaci%C3%B3n-client%C3%ADfica-marina-320061241_fisheriesobservers-marinescience-activity-7058036858135470081-Sskz

4 https://commission.europa.eu/about-european-commission/departments-and-executive-agencies/maritime-affairs-and-fisheries_en

5 <https://www.dgrm.mm.gov.pt/en/web/guest/diariodepescaeletronico> [This is an application des managed by the Portuguese National Fisheries Agency, the Directorate General for Natural Resources, Safety, and Maritime Services. It is mandated for use by fishing vessels over 12m in length to upload records of their fishing activity. It is used by observers to upload their own records.]

6 <https://ejfoundation.org/>

7 <https://www.iss-foundation.org/glossary/electronic-monitoring-system/>

8 <https://www.apo-observers.org/observer-safety/billofrights/>

9 <https://www.itfglobal.org/en/sector/seafarers/flags-of-convenience>

10 <https://www.humanrightsatsea.org/>

11 [https://www.imo.org/en/about/Conventions/Pages/International-Convention-for-the-Prevention-of-Pollution-from-Ships-\(MARPOL\).aspx](https://www.imo.org/en/about/Conventions/Pages/International-Convention-for-the-Prevention-of-Pollution-from-Ships-(MARPOL).aspx)

12 <https://www.efca.europa.eu/en/content/nafo> / <https://www.nafo.int/>

13 https://oceans-and-fisheries.ec.europa.eu/fisheries/international-agreements/regional-fisheries-management-organisations-rfmos_en

14 <https://www.nafo.int/Fisheries/ReportingRequirements/VMS>



Aim

The Aim of this independent report (“the report”) is to continue raising public, regional and international awareness around fisheries observer’s safety, security and wellbeing and associated fundamental individual protections required while working at sea.

Objectives

The three objectives of the report are:

1. **Need.** To publicly update the need around the context, reasoning and necessity for better safety, security and well-being of fisheries observers noting the policy developments and related activities being implemented by the European Union (EU) in the Northwest Atlantic Fisheries Organisation (NAFO) observer programme following human and labour rights incidents involving EU observers.
2. **Safety and Security.** To identify areas of safety and personal security concern in the daily working conditions of observers’ onboard vessels at sea.
3. **Recommendations.** To issue Key Recommendations to all stakeholders to drive policy change, improvements in working conditions and to trigger recognised professionalisation of the observer role.

Background

This report has been triggered by a confirmed at sea incident of alleged harassment and subsequent evacuation of a Portuguese observer from a Portuguese fishing vessel (FV) operating in the North Atlantic Fisheries Organization (NAFO)¹⁵ regulatory area. It also takes account of a past 2021 incident whereby another Portuguese observer was evacuated from a NAFO Portuguese-flagged FV for a reported infringement relating to instances of interference and intimidation on board. The third and most recent incident involves the ongoing investigation into the unexplained death at sea of another Portuguese observer in June 2023 on a Portuguese-flagged vessel fishing off the coast of Argentina and operating out of the port of Montevideo, Uruguay.

15 <https://www.nafo.int>



These three incidents reinforce civil-society and observer association concerns around observer safety, security and wellbeing. This has triggered the issuing of urgent recommendations to be considered and acted upon by coastal state, regional and global Regional Fisheries Management Organisation (RFMO) authorities.

Audience

The intended audience ranges from the public, UN agencies, state and non-state actors, fisheries policy makers, academia and civil society organisations, to constabulary and law enforcement authorities. In the report, the pronoun 'they / their / them' is used to refer to entities and individuals.

Authors

Human Rights at Sea (HRAS), working alongside Elizabeth Mitchell-Rachin of the Association for Professional Observers (APO), Pedro de Jesus, a Board Member of the Portuguese Association of Marine Environmental Observers (APOAM)¹⁶, has investigated, reviewed and published this report.

Conflicts of Interest

There are no known conflicts of interest declared in the concept, preparation, drafting or publishing of the report. HRAS has conferred with stakeholders engaged in this matter and exposed its work for awareness and public use, as required. Concerns around conflicts of interest should be immediately notified in writing to: enquiries@humanrightsatsea.org.

¹⁶ APOAM, as an organization, has not endorsed this report at the time of publishing. HRAS continues to engage.

Methodology and Outreach

At the time of publishing, the authors have:

1. Reviewed a disclosed confidential incident report sourced by a Portuguese Observer Association (APOAM) Board Member noting that the incident review had been previously shared with the APOAM Board in June 2023.
2. Contacted and directly engaged with the EU Commission through DG MARE during the drafting stages of the report for corroboration and guidance.
3. Contacted the Canadian Coast Guard on multiple occasions. (Nil response).
4. Contacted Portuguese flag State Administration authorities on multiple occasions. (Nil response).
5. Contacted and engaged with the APOAM and the observer's employer, SeaExpert (Azores)¹⁷ and Promarinha¹⁸.
6. Contacted and engaged with observers.
7. Peer reviewed the report's contents with APO and subject matter experts.
8. Reviewed accessed and cross-referenced all identified weblinks.
9. Maintained a constant review of the issues raised, evidence gathered, and stakeholders engaged with this report.

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Disclaimer

The content of this report has been published by Human Rights at Sea (HRAS) and co-authors following desk-based research, individual testimony and correspondence with state, regional and fisheries management organisation liaison as well as correspondence with observers, observer associations and a family member of the deceased observer. The contents, including web-links, have been checked as best as possible for accuracy by the authors at the time of writing before publishing. HRAS is not liable in any way, whatsoever, in any jurisdiction for the contents of this report which has been published in good faith in support of the NGO's charitable objectives under English law. All text and images have been acknowledged where able. Any stated opinions, perspectives and comments are solely those of the authors. Any omissions or factual inaccuracies should be immediately alerted to HRAS by writing to: enquiries@humanrightsatsea.org.

¹⁷ <https://seaexpert-azores.com/>

¹⁸ <https://www.promarinha.pt>



PART I

Fisheries Observer Harassment - EU and Beyond

Introduction

An observer is a person who is authorised by a regulatory authority to collect biological and operational data from commercial fisheries. In undertaking their role, the safety, security and well-being of fisheries observers remains a key threat to the integrity of fisheries monitoring programs worldwide. Fisheries observers work alongside, but independently of, fishers for long periods at sea providing coastal states and RFMOs with evidence-based data to assist in sustainable fisheries management.^{19 20}

Observer Vulnerabilities

Observers often experience a high level of vulnerability to multiple forms of harassment in their role because of the job they do in what is a unique work environment that is mostly out of sight and has direct access to land-based scrutiny. They face challenging scenarios, such as monitoring commercial catches with often high financial values, working aboard vessels undertaking Illegal, Unreported and Unregulated (IUU)²¹ fishing activities and often facing direct pressure and/or threats to verify unlawful catches.

Individual observers, as lone consultants under commercial contract, independent of the fishing industry, are further vulnerable to undue crew influence, unwanted personal abuse, including sexual harassment and abuse^{22 23}, as well as pressure to conform to the fishing company's catch data and commercial imperatives.

¹⁹ <https://www.theguardian.com/environment/2020/may/22/disappearances-danger-and-death-what-is-happening-to-fishery-observers>

²⁰ <https://www.humanrightsatsea.org/news/report-fisheries-observer-deaths-sea-human-rights-and-role-and-responsibilities-fisheries>

²¹ <https://www.fao.org/iuu-fishing/en/>

²² <https://alaskapublic.org/2018/06/12/noaa-law-enforcement-researches-sexual-harassment-assault-among-fisheries-observers/>

²³ <https://www.vice.com/en/article/jgqng/trapped-women-working-as-fishery-observers-allege-sex-harassment-assault-at-sea>

Of particular concern, are recent examples of observers who find themselves subject to either veiled or direct threats of legal proceedings against them by fishing companies for undertaking their roles, and which includes reporting on potential fishing violations. Such situations have been reported directly to APO and HRAS and will be variously followed up.

Historic and more recent examples of unexplained deaths at sea^{24 25 26} direct and indirect interference from the crew, and the need to evacuate observers from vessels for their own safety²⁷, all remain prominent issues of ongoing concern within the observer community^{28 29 30} and associated civil society organisations.^{31 32 33 34}

Acting as a recruitment and employment hub in coastal states, many private observer provider companies sign contracts directly with the fishing companies, rather than with a fisheries management body. This has been viewed as a conflict of interest in the establishment, management and policy direction of the observer provider companies^{35 36 37}. It prevents oversight of observer management since the government is not contracted with any of the parties.

If the Observer has a problem with the observer provider, the agency often can do nothing legally to resolve the dispute. Even if an Observer is found to violate professional conduct standards, the agency has limited, if any, authority to discipline. Likewise, if the observer provider violates the observer's labour rights, the agency again has limited, if any, authority.

At the very least, it appears that the observer provider company's profits are prioritised over the welfare of their observer employees, while coastal States have virtually no control over these issues. In this report, we identify, not just the known vulnerabilities, but the need to professionalise and formalise the observer role.

State Responsibility

States own the responsibility for the protection of the human rights of their citizens and those workers operating within their jurisdiction. Under International Maritime Law, the flag state³⁸ has both the jurisdiction and legal responsibility³⁹ for the protection of all persons onboard the vessel flying its flag. The current known gaps in observer protections must now be urgently addressed by states through all applicable mechanisms. This includes coordinating authorities including, but not limited to, Regional Fisheries Management Organisations (RFMOs)⁴⁰, regional commissions⁴¹, state-level administrations⁴², observer program staff, and observer provider companies.

As an example of good practice at state-level for addressing abuse issues raised, the New Zealand Government commissioned a wide-ranging report with actionable recommendations in respect of a review of bullying and harassment of fisheries observers and supervisors⁴³. Observers also regularly report abuse, bullying and harassment coming from the observer program and/or observer provider staff, which has previously resulted in administrative inquiries.^{44 45 46}

This report expands to cover the known general issues of concern for Observers worldwide, including issues around professionalisation of the observer role and associated Key Recommendations.

24 <https://www.apo-observers.org/observer-safety/misses/>

25 <https://www.humanrightsatsea.org/sites/default/files/media-files/2022-07/HRAS-Fisheries-Abuse-Investigative-Report-Dec-2017-%5BSECURED%5D.pdf>

26 https://www.humanrightsatsea.org/sites/default/files/media-files/2021-12/HRAS_Eritara_Aati_Kaierua_Kiribati_Independent_Case_Review_19_May_21.SP%20%281%29_0.pdf

27 <https://www.dfo-mpo.gc.ca/international/mcs-citations-eng.htm#2021>

28 <https://www.apo-observers.org/observer-safety/observer-health-safety-and-welfare/>

29 <https://apocm.blogspot.com/>

30 <https://www.apoam.pt/>

31 https://www.humanrightsatsea.org/sites/default/files/news%20PDFs/HRAS_Eritara_Aati_Kaierua_Kiribati_Independent_Case_Review_19_May_21.SP.pdf

32 <https://ejfoundation.org/films/powerless-bystanders-ghanas-fishery-observers-struggle-to-curb-crimes-at-sea>

33 <https://meetings.wcpfc.int/file/10143/download>

34 <https://www.greenpeace.org/usa/news/un-intervention-needed-on-suspected-murder-case-linked-to-bumble-bee-foods-parent-company/>

35 <https://apo-observers.s3.us-west-2.amazonaws.com/wp-content/uploads/2022/04/10093538/2000-North-Pacific-Groundfish-Observer-Program-Review.pdf>

36 <https://apo-observers.s3.us-west-2.amazonaws.com/wp-content/uploads/2022/04/10093553/2004-Office-of-Inspector-General-National-Review.pdf>

37 https://digital.lib.washington.edu/researchworks/bitstream/handle/1773/44282/Drakopoulos_washington_0250E_20432.pdf

38 Flag State refers to the State under which the vessel is registered and under which legal system the vessel must follow.

39 UNCLOS Article 94 Duties of the flag State: https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf

40 https://oceans-and-fisheries.ec.europa.eu/fisheries/international-agreements/regional-fisheries-management-organisations-rfmos_en

41 For example: EU Commission (DG MARE).

42 <https://www.fisheries.noaa.gov/topic/fishery-observers>

43 <https://www.mpi.govt.nz/fishing-aquaculture/commercial-fishing/operating-as-a-commercial-fisher/fisheries-observer-services/review-of-bullying-and-harassment-of-fisheries-observers-and-supervisors/>

44 <https://apo-observers.s3.us-west-2.amazonaws.com/wp-content/uploads/2022/04/10093645/2013-NMFS-SE-Observer-Program-Admin-Inquiry-PPC-CI-0221-H-08MARI3.pdf>

45 <https://apo-observers.s3.us-west-2.amazonaws.com/wp-content/uploads/2022/04/10093650/2014-NMFS-National-Review.pdf>

46 <https://docs.house.gov/meetings/II/II15/20200227/110575/HRG-116-II15-20200227-SD005.pdf>

Incidents

February 2021: Portuguese Observer Incident

On February 20, 2021, "Fisheries and Oceans Canada fishery officers, acting in their capacity as Northwest Atlantic Fisheries Organization (NAFO) inspectors from the CCGS Cygnus boarded and inspected the Portuguese fishing vessel Novo Virgem Da Barca (IMO 8619687)⁴⁷ in NAFO Division 3M.⁴⁸ Canadian NAFO inspectors issued a Notice of Infringement to the master of the Novo Virgem Da Barca under Article 30 15.(d) of the 2021 NAFO Conservation and Enforcement Measures for observer intimidation.⁴⁹ As a result, Canadian NAFO inspectors, following a request by EU authorities, safely removed the EU observer from the fishing vessel and returned them to port in Canada.

This infringement is considered serious under the NAFO Conservation and Enforcement Measures, resulting in the fishing vessel being subsequently required to proceed immediately to port for a full inspection under its authority".⁵⁰

The observer, who was employed by the Portuguese observer provider, SeaExpert, to monitor the Portuguese-flagged trawler, reported interference and intimidation because of his reporting witnessed infractions of NAFO CEMs, including the report of his own harassment. It has been suggested that the observer is facing a lawsuit filed by the fishing vessel and has, at the time of this writing, allegedly received no assistance or legal representation from Portuguese authorities, or the observer provider. These facts are under continuing HRAS / APO investigation and the case remains unresolved.

NAFO Observer Incident: Spring 2023

A Portuguese observer, contracted by SeaExpert to monitor a Portuguese-flagged trawl fishing vessel, Santa Cristina (IMO 6608309) in the Northwest Atlantic Fishing Organisation (NAFO) Regulatory Area. The observer embarked the vessel in a Spanish port in April 2023. NAFO observers play a vital role overseeing and ensuring adherence to fishing quotas and catch methods in the Northwest Atlantic.

During the first week of fishing in the NAFO Regulatory Area off the Canadian coast, the observer was removed from the vessel by the Canadian Coastguard at the request of the EU following allegations of a hostile work environment onboard, interference in undertaking their role and potential interference with catch data by the vessel's senior crew.

While the incident has been acknowledged by the EU authorities, the collated evidence obtained by various entities, remain subject to ongoing investigation.

June 2023 Portuguese Observer Death at Sea

On June 22, 2023, APO learned of the death of Portuguese fisheries observer, 48-year-old Paulo Renato Peixoto. Originally reported⁵¹ that the boat was a Portuguese-flagged trawler fishing vessel (FV), "Calvão", and known to operate out of the South Atlantic port of Montevideo, Uruguay. From AIS tracking⁵², it appears to have left the Portuguese EEZ on or about March 8, travelled to and briefly

landed in Spain and then headed to the South Atlantic, arriving to the Uruguay EEZ on March 31st. April 21st, it appears to have illegally entered Argentine EEZ, but mostly continued to fish along the Argentine coast. It appears to have landed in Montevideo on June 21. APO contacted APOAM June 22nd who initially confirmed that officials would perform the cremation in Uruguay, without confirmation of identify from family members. The family later requested the body to be returned to Portugal. By July 3rd, the APOAM reported to APO that the autopsy had been completed and that the fishing company would send the body and his belongings to the Azores, Portugal.

On July 10th, a family member reported to APO that their brother's body would arrive in Portugal on July 11. As of September 1st, the cremation had not occurred, and from then on, no information was forthcoming.

The Calvão has a long history of IUU fishing, dating from 2002^{53 54 55 56 57 58 59 60}, and was on the Argentine IUU fishing list in 2020⁶¹. The owner of the company is noted as António Conde & Companhia, S.A.⁶²

Of note, Global Fishing Watch have created this **workspace**⁶³ which contains the AIS tracking data from 7th May 2021 to 7th Aug 2023 for the CALVÃO which was accessed from the AIS data provider Exactearth.⁶⁴

APO Comment

The Portuguese observer, who was evacuated from a NAFO Portuguese-flagged fishing vessel, Novo Virgem Da Barca, in February 2021⁶⁵, was allegedly threatened with litigation by the fishing company. This case remains unresolved two years later without confirmed intervention by EU or Portuguese authorities, despite multiple prior violations by the vessel charged by NAFO without consequence by Portuguese authorities⁶⁶. Any attempt to litigate against observers is just another version of the general intimidation that aims to manipulate and silence observers from reporting violations to authorities. Essentially, this compromises the entire observer program, as it remains unknown how many observers would risk threats of litigation just for doing what they were hired to do.

47 <https://www.vesselfinder.com/vessels/details/8619687>

48 <https://www.nafo.int/About-us/Maps>

49 <https://www.nafo.int/Portals/0/PDFs/COM/2021/comdoc21-01.pdf>

50 <https://www.dfo-mpo.gc.ca/international/mcs-citations-eng.htm#2023>

51 <https://www.jn.pt/3369010490/portugues-morre-em-navio/>

52 AIS tracking is publicly available on several sites - Marine Traffic, Global Fishing Watch. AIS is not as reliable as VMS data that managers use to track vessels. However, it gives a general basis from which to further investigate.

53 2002: <https://savethehighseas.org/wp-content/uploads/2017/05/NAFO-Case-Study.pdf>

54 2012: <https://www.cbc.ca/news/canada/newfoundland-labrador/nafo-cites-foreign-vessels-with-illegally-caught-fish-1.1912758#:~:text=Canadian>

55 2014: https://media.fisheries.noaa.gov/dam-migration/2015noaareptcongress_508.pdf

56 2016: <http://fishermansroad.blogspot.com/2016/12/foreign-trawlers-continue-to-pillage.html>

57 2016: <http://fishermansroad.blogspot.com/2016/12/foreign-trawlers-continue-to-pillage.html>

58 2016: <http://fishermansroad.blogspot.com/2016/12/foreign-trawlers-continue-to-pillage.html>

59 2020: <https://mag.hookandnet.com/2020/05/11/2020-05argentinaeng/content.html>

60 2020: <http://fis-net.com/fis/worldnews/worldnews.asp?>

61 2022: <https://financialtransparency.org/reports/fishy-networks-uncovering-companies->

62 <https://www.vesselfinder.com/vessels/details/6608309>

63 https://globalfishingwatch.org/map/fishing-activity/calvao_recent_ais_workspace-user-public

64 <https://www.iridium.com/company/exactearth-ltd/>

65 <https://www.dfo-mpo.gc.ca/international/mcs-citations-eng.htm#>

66 September 26, 2021; March 28, 2022.

An estimated 24,000 people die on commercial fishing vessels and 24 million are injured each year.



Photo Credit: Pedro de Jesus

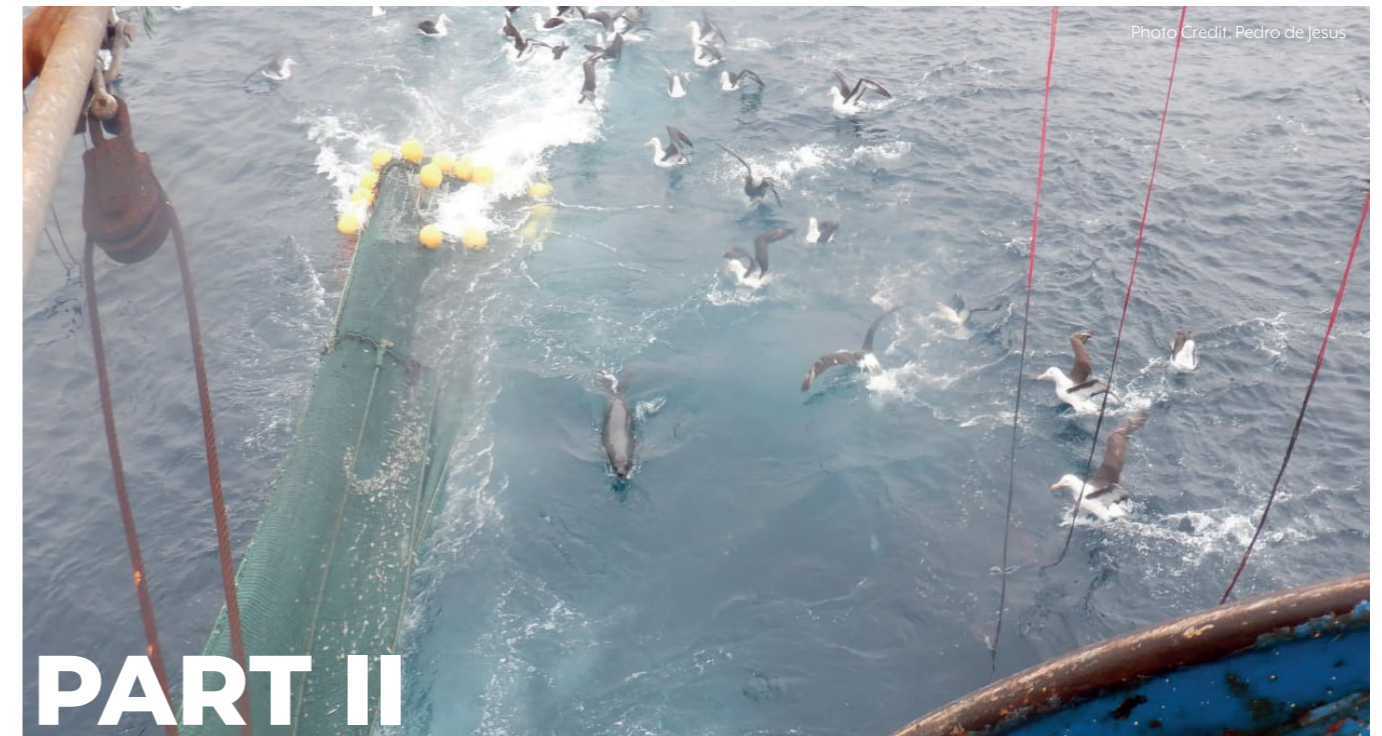


Photo Credit: Pedro de Jesus

PART II

EU Commission DG MARE Response



About

The Directorate-General for Maritime Affairs and Fisheries (DG MARE)⁶⁷ develops and carries out the Commission's policies on: Maritime affairs and fisheries⁶⁸

The Directorate-General works to:

- ensure that the ocean resources are used sustainably and that coastal communities and the fishing sector have a prosperous future
- promote maritime policies and stimulate a sustainable blue economy
- promote ocean governance at international level

Written Response

Official email response received from DG MARE to HRAS.

DG MARE have stated: "MARE services are subject to confidentiality provisions regarding the disclosure of fisheries data (cf. Article 113 of the Control Regulation) and we cannot disclose or acknowledge the identification of operators, observer providers or observers."

⁶⁷ https://commission.europa.eu/about-european-commission/departments-and-executive-agencies/maritime-affairs-and-fisheries_en

⁶⁸ https://commission.europa.eu/topics/maritime-affairs-and-fisheries_en

“Dear Mr Hammond⁶⁹,

Allow us to first underline the European Union’s commitment to ensure the safety of fisheries observers and therefore the appreciation for any work done towards that goal.

1. The European Union’s NAFO observer program

The European Union led the discussions that in 2019 culminated with the adoption of the current NAFO Observer Program (Article 30 of the NAFO Control and Enforcement Measures¹ - the NAFO CEM). Internally, Regulation (EU) 2019/833² establishes the framework of the EU’s NAFO Observer Program. Member States have different ways of organising their observer programs. However, the flag Member State responsibilities to ensure the safety of the observer, the systematic assessment of observer’s data and the obligation to implement all NAFO CEM requirements remain the same. The European Fisheries Control Agency³ (EFCA) coordinates the EU’s NAFO Joint Deployment Plan through which all NAFO Member States concerned pool their control means and share fisheries data, including observers’ data, to carry out fisheries control under the framework of the NAFO CEM, both in port and at sea in the NAFO Regulatory Area. Since 2023, EFCA also receives, compiles and transmits to the NAFO Executive Secretary certain information originating from the observer program, such as the notification of names of EU’s observers or the observers’ trip reports. DG MARE represents the European Union in Regional Fisheries Management Organisations, including NAFO and its Committee of Compliance.

Since the adoption of the current NAFO observer program, the European Union has committed to fully implement those requirements and to improve the quality of the data delivered by the program. For that purpose, the EU organises since 2020 an annual EU NAFO observers’ workshops with participation of observers, observer providers, EFCA, Member States’ control authorities and staff from the NAFO Executive Secretary. The workshop has included an agenda item on challenges and case studies, allowing participants a better identification of the weaknesses and strengths of the observer program. The workshop has been key on improving the EU’s implementation of the NAFO observers’ program and on building a fruitful cooperation between observers and fisheries control services. This cooperation, the improved quality of the data delivered by the program and the systematic use of observers’ data for risk assessment and fisheries control led to better control and inspections both at sea and in port. This also led to challenges on board for the observers, including an exceptional incident in 2021 regarding a reported obstruction of the observer on board a Union fishing vessel. Due to safety concerns, the flag Member State took the decision to remove the observer on board. Following this incident, the 2021 edition of the EU’s observer workshop included a dedicated and separated session with the fishing industry and control authorities where DG MARE explained the NAFO CEM requirements relating to the observer program and conveyed to the industry a zero-tolerance policy regarding any instances of obstruction or intimidation to the observers.

2. The 2023 revision of the NAFO observer program

After four years of implementation, we have not seen the same level of commitment by other NAFO Contracting Parties, with examples where observers are not deployed as required, vessels in which the master of a vessel became the observer of another vessel of the same company in a different trip, and several Parties where the observers deliver verbatim data (i.e. the same data as the master), which is indicative of the lack of an independent observer on board. In 2022 and 2023, NAFO revised its observer program to address those issues⁴ and to improve the protection of the observers. The EU has been again the main contributor to this exercise, tabling a discussion paper which, after the revision of the dedicated Working Group on the Revision of the Observer Program and NAFO’s Committee of Compliance, was finally endorsed by the NAFO Commission at its 2023 Annual Meeting (18-22 September 2023) and will enter into force in 2024. We would like to highlight in particular the following changes in the NAFO observer program relating to the protection of the observers:

- The obligations for the Parties to guarantee a direct and confidential communication with the flag State control authorities, by either providing observers with an independent satellite two-way communication device at sea; and/or with a communication device and ensuring that the observer is provided by the vessel master with unhindered independent data and voice internet access on board at all times. The wording “satellite” is added to the expression “independent two-way communication device”, given the current disparity of interpretations on this requirement between the Parties, which ranged from providing internet access on board to the observer (who would use then their own devices to contact the flag State authorities), independent modules within the electronic fishing logbook which can only be accessed by the observers, or satellite phones. The new requirement will be to either provide a satellite phone or unhindered internet access to the observers, or both. Linked to this requirement, a new obligation of the master will be to provide the observer with unhindered independent internet access on board at all times, unless the observer has available a fully operational two-way satellite communication device.
- Protocols for the observer to safely and directly contact the flag State authorities to report safety concerns will become mandatory. These protocols and coded communications are already an EU’s best practice, now included in the revision of the NAFO program.
- An explicit prohibition for the operator not only to refuse an observer deployment but also to be involved in any way in the process to select the observer to be deployed.
- A description of the serious infringement regarding “*obstructing, intimidating, interfering with, bribing or attempting to bribe, compromising the safety of or otherwise preventing inspectors or observers from performing their duties,*” to make it explicit that this applies “*including prior, during or after the relevant observed or inspected fishing trip*”.

While the revision includes the obligation for the Parties to ensure that the observers have the training, knowledge, skills and abilities to perform all of the duties, functions and requirements specified in the NAFO observers’ program, there was no agreement

69 Correspondence with Mr David Hammond, CEO, Human Rights at Sea (HRAS).

regarding the minimum training or a common certification or curriculum for the observers. We take note however about the concerns raised in your report regarding this topic (Part V), with a view to bring them to the discussions of the Working Group on the Revision of the Observer Program in 2024. We will continue to aim at building a close cooperation and trust between observers, observer providers and control authorities and to support observers, including through NAFO processes.”

References:

1. <https://www.nafo.int/Portals/0/PDFs/COM/2023/comdoc23-01.pdf>
2. Regulation (EU) 2019/833 of the European Parliament and of the Council of 20 May 2019 laying down conservation and enforcement measures applicable in the Regulatory Area of the Northwest Atlantic Fisheries Organisation, amending Regulation (EU) 2016/1627 and repealing Council Regulations (EC) No 2115/2005 and (EC) No 1386/2007.
3. Regulation (EU) 2019/473 of the European Parliament and of the Council of 19 March 2019 on the European Fisheries Control Agency.
4. NAFO Working Group on the Revision of the Observer Program meeting report (20 June 2023).

Ends.

HRAS Comment

These EU observer incidents both highlight and corroborate ongoing civil society and observer association public reporting around the challenges that fisheries observers face in undertaking their vital role at sea. Abuse of any kind is unacceptable and must not be tolerated as separately confirmed by DG MARE. The safety, security and well-being of every observer must be safeguarded at all times, without exception. In the latest incident example, the observer was allegedly subject to intimidation and harassment onboard an EU-registered fishing vessel. According to DG MARE, the observer was expediently removed by state maritime law enforcement authorities at the direct request of European authorities in coordination with the flag state. Sadly, this is not always the outcome for all observers. In issuing this report, direct engagement with EU Commission authorities, observer Associations, observer providers and observers have been key to reinforcing the specific incidents and wider issues being raised.



Photo Credit: Fernando Anido 2023



Commentary - General Issues of Concern for Fisheries Observers Worldwide

Introduction

In the United States (US), there is issued direction and guidance (notably from NOAA^{70 71}) pertaining to the prevention of observer harassment, including physical and sexual harassment. Yet, to date, only one region in the US regularly reports on observer harassment and only recently began attempting to identify trends to learn their source. Analysing observer harassment by multiple metrics (i.e., by fishery, region, etc.) could help law enforcement target limited resources to address the issue. Below, the report further highlights multiple areas of concern for fisheries observers worldwide. These are outlined with the aims of improving observer safety, security and well-being and professionalising the observer role.

Physical and sexual assault of observers and other forms of harassment

Harassment of observers is a widespread and ongoing problem. Whilst the Observer in the case study was not physically harassed, the threat against them was deemed severe enough to have them physically evacuated by the Canadian Coast Guard at the behest of the European Commission.

Sexual harassment is another severe issue facing observers, especially women. Sexual harassment and abuse are particularly common against female observers, especially when they are deployed as lone observers, though men also report sexual harassment, which is limited in its overt coverage. As outlined in a recent US court case, it is estimated that there are '25–30 cases [of sexual harassment] reported [by observers] each year in Alaska alone.'⁷² Furthermore, in Alaska alone, the much more

70 <https://www.fisheries.noaa.gov/resource/document/notice-preventing-observer-harassment>

71 <https://media.fisheries.noaa.gov/2023-04/Notice-on-Preventing-Observer-Harassment.pdf>

72 https://www.gc.noaa.gov/documents/2022/2022-03-07-alaskan-lady-initial-decision-and-order-final-issued-Redacted.pdf_p45

common reports of general harassment and interference stood at circa 260 in the most recent annual observer reports.

Physical assault, bribery attempts, interference, intimidation, and other forms of harassment are common across the observer population and are a strong indicator of illegal fishing practices.

Retaliatory lawsuits against observers

Lawsuits in the EU are allegedly being launched against the individual observer, rather than the government or the observer provider, on the basis that observers' reports cause the vessel to lose revenue and damage vessel operators' reputations. Threats of lawsuits against the observer, even if unfounded, can also be used to manipulate the observers' reporting, especially since one has already been successfully filed against the observer.

Comment. If correct, this needs to be aggressively challenged because threats of litigation can undermine an observer's impartiality and could compromise the accuracy of their data. Without adequate support from national governments, regional authorities, and observer providers, the observer is increasingly vulnerable to threats of crew harassment.

The observer provider, rather than the individual, should be liable for any lawsuits. The individual observer should therefore be indemnified against any lawsuit targeting them personally.

Threats to dependants and livelihoods

It has been reported that observers' dependants have been contacted by vessel operators / employers.

Comment. This form of extended harassment outside the immediate observer contracted role must stop. It is vital that all parties diligently safeguard individual observers' personal data, to protect them and their dependants. Alongside unlawful gathering of their personal data, observers face other personal risks, such as blacklisting by fishing companies for future employment.⁷³

Lack of transparency around observer deaths and disappearances

In recent years, several observers have died or disappeared in suspicious circumstances in different areas of the world. Investigations of these incidents are often slow and opaque, if they begin at all.⁷⁴

Moreover, observer providers are often directly contracted with the fishing companies, rather than through government agencies. This can create the appearance of a conflict of interest. It stands to reason that, without a direct contract with the government mandating the coverage and associated worker rights, the observer's welfare may be overlooked, and investigations of threats/harassment (may) not properly investigated.

Lack of consequences for threats to observers⁷⁵

After incidents where observers are threatened, vessels may simply return to sea without immediate victim remediation.

73 https://spo.nmfs.noaa.gov/sites/default/files/TMSPO186_0.pdf_pl6

74 <https://www.apo-observers.org/observer-safety/misses/>

75 <https://www.apo-observers.org/observer-safety/rfmo-observer-safety-measures/>

Lack of independent means of communication

Most observers lack access to their own personal satellite communications device.⁷⁶ This leaves them reliant on phone applications such as WhatsApp and email which require access to Wi-Fi, or subject to the officers' control of the vessel's satellite communications equipment.

Lack of recognition as a Maritime professional

It is becoming clear that there is a need for observers to be formally and internationally recognised as maritime professionals. The benefits would be significant:

- **Improved health benefits.** To have access to healthcare is essential to maintaining physical and mental well-being.
- **Better onboard safety standards.** To be subject to the same safety standards as other seafarers, thereby preventing accidents and ensuring a safe working environment.
- **Social security.** To have access to these benefits, which will provide them with financial security and stability.
- **Protection from exploitation.** To be entitled to the same protections, which will prevent them from any form of exploitation or abuse while working on the vessel.
- **Representation and support.** To be represented by trade unions and other organisations that provide support and assistance in negotiating fair wages and working conditions.
- **Training and education.** To receive certified and recycled training and education to improve their skills and knowledge.

Lack of public access to observer data, including observer harassment data

Fisheries resources are publicly owned, and therefore must maintain public transparency and oversight of observer programme management of what observers' report, including their own harassment preventing them from doing their important work. The lack of transparency in observer programmes contributes to observer harassment. Observers sign confidentiality agreements with threats by the agencies of legal proceedings against them if they discuss their observations. Yet, few observer programmes report on statistics and nature of observer harassment and only one observer programme recently started analysing the trends in North Pacific fisheries.

Many observers don't have a safe place to keep their reports and risk dangers documenting illegal activity.

One of the most common complaints observer advocacy groups receive is that agencies don't act on their reports. Kiribati observer, Antin Tamwabeti, committed suicide following one of his trips in 2019 after receiving death threats on a previous trip just before his last trip. He became unstable and paranoid. His tragic final letter to friends highlighted this about his programme's treatment of observer reports.

“ Keeping a report and evidence of critical incidents during an observer trip was risky so every report must not be wasted...As far as I know most of the observer's cases and complaints were left unsolved. ”

Besides their work reporting on fish catch and practices, observers report on countless illegal activities, including human rights abuses and drug running. None of these sorts of reports are publicly available and mask from the public the true challenges observers face in being the “eyes and ears” of the government. We rely on our fisheries managers to report on these public resources accurately and transparently to the public. The lack of transparency in observer programmes also hides the difficulties in developing sustainable fisheries, as observers have reported increased pressure to certify documents of sustainability criteria⁷⁷.

Lack of agency response to the needs of grieving dependants of deceased observers

Since 2015, at least 14⁷⁸ fisheries observers have gone missing or died under suspicious circumstances that all remain unresolved with no publicly available investigation report. Dependants are left bereft of information about the circumstantial facts surrounding the death of their beloved or status of investigations. The family of Keith Davis never received an investigative report regarding his disappearance in 2015. The family of Eritara Kaierua still has not received the autopsy report of their husband/brother/father/son, after his death over three years ago. In this case, the lawyer(s) for the vessel received the autopsy report but the dependants did not. Likewise, a Portuguese observer died on a Portuguese-flagged vessel, Calvao, fishing off the coast of Argentina in June 2023 and the family has yet to receive the autopsy report.

Impact on fisheries observers' safety, health and welfare

Despite the important work they do, observers are often undervalued and under recognised by the general public or even by the agencies responsible for assigning them. It is estimated there are at least 2,500 observers worldwide⁷⁹, or about one for every thousand fishing vessels globally⁸⁰, and in Europe, for example, in the Regional Observer Programme for eastern Atlantic and Mediterranean bluefin tuna (ICCAT ROP-BFT)⁸¹, there were 190 simultaneous at-sea observer deployments on purse seiners during the 2021 fishing season.⁸²

Fisheries observers' safety concerns were addressed in a study focusing on the compliance monitoring and at-sea observer programmes for 17 Regional Fisheries Management Organizations (RFMOs).⁸³ One of the questions in the present evaluation study concerned how these RFMOs ensure that monitoring of conservation measures and compliance can take place effectively while protecting human observer safety, health and welfare. The answer revealed that:

77 https://oceanfish.spc.int/en/publications/doc_details/1844-rocw18-report-of-workshop-final 2.1 Status of recommendations from ROCW17 xiii. Recommendation 13.

78 At time of writing, there is an ongoing investigation into the suspicious death of a Portuguese observer.

79 <https://revealnews.org/article/he-was-supposed-to-protect-the-sea-then-he-vanished-from-his-ship/>

80 <https://www.pnas.org/doi/10.1073/pnas.1820344116>

81 <https://www.iccat.int/en/ROPbft.html>

82 https://www.iccat.int/com2021/Annex/PA2_601_Annex1.pdf

83 <https://doi.org/10.1016/j.marpol.2020.103842>

76 NAFO 2023 Conservation and Enforcement Measures CHAPTER V – Observer Scheme. Article 30 – Observer Program – pg.60 “8. Each flag Contracting Party shall:(e) ensure that observers are equipped with an independent two-way communication device at sea.”.

“ the current state of affairs is dangerous to both observer safety and the sustainable management of fisheries. ”

Moreover,

“ only eight RFMOs have some form of publicly available regional-level observer safety mandate ” ,

with only

“ six RFMOs specifically outlining the processes that need to be undertaken if an observer faces harassment or intimidation. ”⁸⁴

Furthermore, recognition as a maritime professional would constitute international institutional acknowledgement of the crucial role observers play in fisheries management and in monitoring ecosystems by providing; “**a subset of inputs for ecological risk assessments**”, and outputs that “**are used to monitor fishery effects on habitat and to identify and protect benthic vulnerable marine ecosystems**” and “**facilitate monitoring ecosystem pressure and state indicators.**”⁸⁵

84 <https://doi.org/10.1016/j.marpol.2020.103842>

85 <https://doi.org/10.1093/icesjms/fsx032>



PART IV

Appendix Paper.

Reliable and Independent Satellite Communications in Fisheries and Means of Sending an Emergency Location Signal Independent of the Vessel's Communication

Recently, there has been a growing emphasis on the use of two-way independent satellite communication devices by fisheries observers while they are on board fishing vessels.⁸⁶ One reason for this is that observers are often required to transmit independent reports on the vessel's catch composition, geographical position and other vessel activities. These reports are used to monitor fish stocks, to manage the sustainable use of marine resources, and manage ships' compliance with the relevant Conservation and Enforcement Measures and MARPOL's pollution prevention standards. Without independent communication devices, observers are dependent on the vessel's communication systems.

Since 2007, Contracting Parties (CPs) in the Northwest Atlantic Fisheries Organization (NAFO) have had the option of using an electronic reporting scheme.⁸⁷ This scheme utilizes the Electronic Fishing Journal (DPE) application, which is currently in use by Portuguese observers and fishing vessels as a vehicle of communications to send daily and weekly reports. However, vessel daily catch report (CAT) and observer daily reporting of the catches and discards (OBR) “**are transmitted through the same**

86 NOAA Fisheries National Observer Program Advisory Team's Safety Advisory Committee. <https://test-www.fisheries.noaa.gov/s3/2022-08/Two-Way%20Satellite%20Communication%20Devices.508.pdf#:~:text=Two-way%20communication%20devices%2C%20such%20as%20satellite%20phones%20or,Enforcement%2C%20problems%20with%20harassment%2C%20etc.%29%2C%20ask%20questions%20about>

87 Technology Can Improve Safety and Security for Observers on Fishing Vessels (2021). Retrieved from <https://grip.eu/technology-can-improve-safety-and-security-for-observers-on-fishing-vessels/>

technology and communication channels as the VMS”.⁸⁸ Bridge vessel officers can have access to the observer communications noting DG MARE assertions to HRAS that “The Electronic Fishing Logbook module (DPE application) for observers is password protected, confidential and cannot be accessed by anyone but the observer once the observer logs out from the application.”, suggesting that observers’ submissions are not guaranteed as being confidential at all times, noting the ability access while the observer is logged in. DG MARE in correspondence with HRAS has asked the following clarification to be added: “We would like to clarify that when using this system, the observers are instructed to log in when necessary to send the information and to log off and close the application afterwards, thus ensuring that the information remains confidential and the system password protected.

Further, the 2023 NAFO Conservation and Enforcement Measures (NCEM - Article 30.8.e), states that each flag CP shall “ensure that observers are equipped with an independent two-way communication device at sea”⁸⁹ This is something that CPs and the observer provider company often fail to include in the safety gear package delivered for observers’ deployments. Moreover, it is argued that many of the Portuguese flagged FVs currently operating in NAFO do not give observers access to Wi-Fi for their personal phones or laptops and as such, secure two-way communications devices with SOS functioning must now be guaranteed.

In addition to compliance with conservation and enforcements measures, the use of satellite communication devices is also important for the safety and health of fisheries observers.⁹⁰ Fishing vessels can be incredibly dangerous, with slippery decks and heavy equipment. Should an accident occur, it is essential that the observer is able to communicate with the outside world to get the necessary medical attention. Moreover, fishing vessels often travel to remote or isolated areas where there is a high risk of illness or infection. Also, the use of independent satellite communication devices provides a level of security. These devices can be used to track the observer’s location, which can be crucial if they are in danger or need assistance.⁹¹ In addition, these devices can be used to send distress signals in case of an emergency or if the observer feels unsafe or threatened.

In conclusion, the use of independent satellite communication devices, with positioning or SOS capacity, is essential for fisheries observers safety, security and wellbeing on board FVs, especially if a situation arises whereby an observer is incapacitated and/or unlawfully deprived of their liberty onboard a FV. These devices not only enable the observer to transmit reports on the vessel’s catch and activities in private, but also ensure their safety and health and provide a level of security in case of an emergency. By investing in these devices, observer provider companies, observer programme management teams and fishing companies can ensure that they are acting responsibly and sustainably whilst also protecting the lives and well-being of seafarers.

Image right: Observer 2-way satellite communications device.



Photo Credit: supplied by Pedro de Jesus 2023

⁸⁸ NAFO - Report of the Fisheries Commission and its Subsidiary Body, 2016. Retrieved from <https://www.nafo.int/Portals/0/PDFs/fc/2016/fcdocl6-20.pdf>

⁸⁹ Northwest Atlantic Fisheries Organization Conservation and Enforcement Measures 2023. Retrieved from <https://www.nafo.int/Portals/0/PDFs/COM/2023/comdoc23-01.pdf>

⁹⁰ Technology Can Improve Safety and Security for Observers on Fishing Vessels (2021). Retrieved from <https://grip.eu/technology-can-improve-safety-and-security-for-observers-on-fishing-vessels/>

⁹¹ MSC - Creating a fisheries communication platform to enhance observer safety. Retrieved from <https://www.msc.org/what-we-are-doing/our-collective-impact/ocean-stewardship-fund/impact-projects/creating-a-fisheries-communication-platform-to-enhance-observer-safety-2021>

The current state of affairs is dangerous to both observer safety and the sustainable management of fisheries.



Photo Credit: Paul Einerhand on Unsplash



Photo Credit: Pedro de Jesus

PART V

Appendix Paper. Professional Recognition of Fisheries Observers

According to published reports and studies, commercial fishing is one of the most dangerous professions in the world. An estimated 24,000 people die on commercial fishing vessels⁹² and 24 million⁹³ are injured each year. More recent studies suggest that these figures may be even higher, with more than 100,000 annual fishing-related deaths.⁹⁴ Observers are exposed to a range of safety hazards, including poor weather conditions, hazardous working environments and inadequate safety equipment. They face numerous health risks including exposure to infection and mental health stressors, such as observer intimidation and harassment.

Fisheries observers are professionally trained biological technicians⁹⁵ authorized by a regulatory authority to collect scientific information. They play a critical role in ensuring sustainable and responsible fisheries management and assist in the monitoring, compliance and surveillance (MSC) of the commercial exploitation of marine resources.⁹⁶ Observers collect and provide valuable information regarding daily fishing activities, biological samples, sea surface temperature and other information needed for catch-per-fishing-effort data and stock assessment, species impacted by discard and by-catch, ecosystem effects, birds and protected species interactions. They also supervise the compliance and signing off of high-sea trans-shipment activities, thereby enhancing the enforcement of policies and increasing conservation efforts.⁹⁷

Observers are the “**most effective and efficient means of collecting at-sea information**”⁹⁸ representing “**a unique enforcement resource that can facilitate detection and penalization of violations**”,⁹⁹ and it is imperative that they should be “**financially independent of the industry being monitored**”.¹⁰⁰

Furthermore, according to Principle 4 present in the United Nations Framework Principles on Human Rights and the Environment, “**Human rights defenders include individuals and groups who strive to protect and promote human rights relating to the environment (see A/71/281, para. 7). Those who work to protect the environment, on which the enjoyment of human rights depends, also promote human rights, whether or not they self-identify as human rights defenders.**”¹⁰¹

Therefore, recognising fisheries observers as maritime professionals is essential.

Recognition by the International Maritime Organization (IMO), the International Labour Organization (ILO), and the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F)¹⁰² of fisheries observers as maritime professionals would ensure they are afforded the same level of protection and support as other maritime professionals.

This recognition would require the development and implementation of appropriate regulations and guidelines, as well as the provision of adequate training and support. National and international observer associations should also be involved, cooperating with national and regional bodies in the development of those regulations, guidelines, support measures and training models, and advising CPs on their National and Regional implementation schemes and frameworks.

STCW-F 95’ is currently being comprehensively reviewed by IMO’s Sub Committee on Human Element, Training and Watchkeeping¹⁰³ to align the standards of the Convention with the current state of the fishing industry. However, it still fails to set certification and minimum training requirements for the Certified Fisheries Observer.

ILO C188¹⁰⁴ was adopted with the aim of ensuring decent working conditions for fishers aboard fishing vessels by setting international standards for fisheries. However, it states that “**For the purposes of the Convention, fishers do not include pilots; naval personnel; other persons in permanent service of a government; shore-based persons carrying out work aboard a fishing vessel; fisheries observers;**

95 <https://www.fisheries.noaa.gov/topic/fishery-observers>

96 <https://www.apo-observers.org/about-observers/>

97 <https://www.fisheries.noaa.gov/topic/fishery-observers>; <https://www.apo-observers.org/about-observers/>

98 <https://www.fint.awsassets.panda.org/downloads/observerreportlores.pdf>

99 <https://www.sciencedirect.com/science/article/abs/pii/S0308597X0900178X>

100 <https://apo-observers.s3.us-west-2.amazonaws.com/wp-content/uploads/2021/01/18142557/international-observer-bill-of-rights-guide.pdf>

101 <https://www.ohchr.org/sites/default/files/FrameworkPrinciplesUserFriendlyVersion.pdf>

102 <https://www.imo.org/en/ourwork/humanelement/pages/stcw-f-convention.aspx>

103 <https://safety4sea.com/review-of-1995-stcw-f-convention-completed/>; <https://catchingthepotential.eu/wp-content/uploads/2020/04/STCW-F-Revision-2020-two-pager.pdf>

104 https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0:NO::PI2100_ILO_CODE:C188

92 https://www.ntsb.gov/news/events/Documents/2010_Fishing_Vessel_Safety_FRM-29-FAO-Pub-966.pdf

93 https://labourdiscovery.ilo.org/discovery/fulldisplay?vid=41ILO_INST:41ILO_V1&search_scope=MyInst_and_CI&tab=Everything&docid=alma993369843402676&ang=en&context=L&adaptor=Local%2520Search%2520Engine&query=any,contains,cooperatives,AND&mode=advanced&offset=10

94 <https://static1.squarespace.com/static/634cbf73ee2d4b58a718c0db/t/63d1ad0be58971179187d965/1674685709886/Final+Published+Marine+Policy+Paper+101222.pdf>

*persons working ashore in post-harvesting activities such as processing (when done ashore), or in marketing activities*¹⁰⁵.

Nevertheless, ILO reports recognise the increased use of fisheries observers and that they constitute a new and growing category of workers within the fishing sector, as shown by the conditions of work of observers being often set out in fisheries agreements.¹⁰⁶

Definitions of 'observers' and 'fishers' are often unclear and diverge from country to country. Overall, there is a general lack of standardised definitions¹⁰⁷. The observer community feels that Article I of the present ILO C188 Convention incorrectly lacks any mention of 'observers'.

The IMO should develop regulations and guidelines for the protection of fisheries observers, while the ILO should ensure that they are afforded the same rights and protections as other seafarers. The STCW-F should develop appropriate training and certification requirements for fisheries observers, ensuring that they are adequately trained and certified for their work.

Member States and their National Maritime Authorities need to take action to develop regulations and guidelines for the recognition of observers as a maritime professional and develop appropriate requirements for the certification of a seaman book category. Seafarer's Identity Document (SID), or the Seaman's Service Record/Book, is recognised by most IMO/ILO member states as a valid 'passport'. This helps in arranging and obtaining visas, enables seafarers to travel on marine flight fares (allowing lower cost and expenses of regional observer programmes) and creates a clear record of career progression for future employers.

Example: Portugal

In accordance with the Resolution of the Assembly of the Portuguese Republic (December 2021),¹⁰⁸ recognition and attribution of professional status to fisheries observers was recommended to the Government of Portugal.

There is, thus far, no evidence of actions or/and intentions showing any commitment from the Portuguese government to implement that recommendation. According to the current framework (ILO 108)¹⁰⁹, SIDs can be issued by the crew member's country of nationality, country of the flag vessel, or by the country of the crew member's employer. However, the ILO 185¹¹⁰, adopted in 2003 but not yet ratified by all Member States, presents the new standard of SID as a biometric document, which can only be issued by a crew member's country of nationality or country of legal, permanent residence.

Nevertheless, it is important to note that professional recognition as a maritime professional with a seaman category is not a panacea for all the challenges faced by fisheries observers. There are still significant challenges in ensuring the safety, health, and welfare of fisheries observers, including the need for improved working conditions, better access to medical care, and increased awareness of the importance of their role.

¹⁰⁵ https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/publication/wcms_206454.pdf

¹⁰⁶ https://www.ilo.org/global/industries-and-sectors/shipping-ports-fisheries-inland-waterways/WCMS_181288/lang-en/index.htm

¹⁰⁷ <https://www.sciencedirect.com/science/article/abs/pii/S0308597X22004870?via=ihub>

¹⁰⁸ <https://files.dre.pt/1s/2021/12/23800/0000300003.pdf>

¹⁰⁹ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::PI2100_ILO_CODE:C108

¹¹⁰ https://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::PI2100_ILO_CODE:C185



Key Recommendations

This report highlights multiple issues of concern in the working conditions, treatment and general employment of observers at sea.

The following recommendations are provided to catalyse further engagement in-sector, with fisheries observer bodies, RFMOs, port, coastal and flag state authorities.

We Recommend

- 1. Transparent Public Reporting.** All cases of all forms of individual abuse, including, but not limited to harassment and observer mortalities (explained and/or unexplained) must be transparently reported. This includes the ongoing study of the trends in observer harassment to identify the sources (companies, fisheries, regions and whether associated with reporting of IUU activities or not).
- 2. Two-way Communication Devices.** Assured provision at all times of personal two-way communications devices that are fully working, including capacity to emit a SOS emergency signal with their location.
- 3. Professionalisation.** Professionalisation of the role of fisheries observer with recognition by the ILO via an amendment to ILO C188.
- 4. RFMO Contracts.** Observer providers contract directly with the RFMO rather than with the fishing company.

- 5. Litigation Indemnity.** Observers must be indemnified from litigation by fishing companies.
- 6. Guaranteed Confidentiality.** Observer providers and agencies must have guarantees of confidentiality of observers' personal information. All communications from the fishing company or vessel personnel must go through the observer provider or the agency.
- 7. Assured Agency Transparency with Dependants of Observers.** In the event of an observer death or disappearance, agencies and observer providers must prioritise providing the dependants with transparent immediate basic information about the circumstances involved in the death of their loved ones, such as basic observer program information and duties of the observer. Further, this must include all communications from the observer while on the vessel, agency/observer provider responses, medical treatment response on board, details of any investigation, autopsy reports without delay, and accurate certificates of death.



Photo Credit: Fernando Anido 2023

Who We Are

Background

Human Rights at Sea was established in April 2014. It was founded as an initiative to explore issues of maritime human rights development, review associated policies and legislation, and to undertake independent investigations of abuses at sea. It rapidly grew beyond all expectations and for reasons of governance it became a registered charity under the UK Charity Commission in 2015.

Today, the charity is an established, regulated and independent registered non-profit organisation based on the south coast of the United Kingdom. It undertakes **Research, Advocacy, Investigation and Lobbying** specifically for human rights issues in the maritime environment, including contributing to support for the human element that underpins the global maritime and fishing industries.


The charity works internationally with all individuals, commercial and maritime community organisations that have similar objectives as ourselves, including all the principal maritime welfare organisations.


UN ECOSOC. We are an organisation in special consultative status with the UN Economic and Social Council since 2022.


Our Mission


We exist to prevent, detect, and remedy human rights abuses at sea. We raise public awareness of abuses at sea, and support people at sea to understand their rights.

Stay in Contact


 We welcome any questions, comments or suggestions. Please send your feedback to: Human Rights at Sea, VBS Langstone Technology Park, Langstone Road, Havant, PO9 1SA, UK.

 Email: enquiries@humanrightsatsea.org

 www.humanrightsatsea.org

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