

Commission Regulation (EC) No 1010/2009 of 22 October 2009 laying down detailed rules for the implementation of Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing

TITLE IV

MUTUAL ASSISTANCE

CHAPTER III

Requests for assistance

Article 42

Definitions

For the purposes of this Title ‘request for assistance’ means a request addressed by one Member State to another Member State for:

- (a) information;
- (b) enforcement measures; or
- (c) administrative notification.

Article 43

General requirements

1 The applicant Member State shall ensure that all requests for assistance contain sufficient information to enable a requested Member State to fulfil the request, including any necessary evidence obtainable in the territory of the applicant Member State.

2 Requests for assistance shall be limited to substantiated cases where there is reasonable cause to believe that IUU fishing or serious infringements referred to in Article 42(1)(b) and (c) of Regulation (EC) No 1005/2008 have occurred and where the applicant Member State is not able to obtain the requested information or to take the requested measures by its own means.

Article 44

Transmission of requests and replies

1 Requests shall only be sent by the single authority of the applicant Member State or by the Commission to the single authority of the requested Member State. All replies to a request shall be communicated in the same way.

2 Requests for mutual assistance and the respective replies shall be made in writing.

Changes to legislation: There are outstanding changes not yet made to Commission Regulation (EC) No 1010/2009. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

3 The languages used for requests and for the communication of information shall be agreed by the single authorities concerned before requests are made. If no agreement can be reached, requests shall be communicated in the official language(s) of the applicant Member State and replies in the official language(s) of the requested Member State.

Article 45

Requests for information

1 A requested Member State shall, at the request of an applicant Member State, or of the Commission, supply any relevant information required to establish whether IUU fishing or serious infringements referred to in Article 42(1)(b) and (c) of Regulation (EC) No 1005/2008 have occurred or to establish whether there is a reasonable suspicion it may occur. That information shall be supplied via the single authority as referred to in Article 39.

2 The requested Member State shall, at the request of the applicant Member State or of the Commission, carry out the appropriate administrative enquiries concerning operations which constitute, or appear to the applicant Member State to constitute, IUU fishing or serious infringements referred to in Article 42(1)(b) and (c) of Regulation (EC) No 1005/2008. The requested Member State shall communicate the results of such administrative enquiries to the applicant Member State and to the Commission.

3 At the request of the applicant Member State, or of the Commission, the requested Member State may permit a competent official of the applicant Member State to accompany the officials of the requested Member State or of the Commission, in the course of administrative enquiries referred to in paragraph 2. In so far as national provisions on criminal proceedings restrict certain acts to officials specifically designated by national law, the officials of the applicant Member State shall not take part in such acts. In no event, shall they participate in searches of premises or the formal questioning of persons under criminal law. The officials of the applicant Member States present in the requested Member State must at all time be able to present written authority stating their identity and their official functions.

4 At the request of the applicant Member State, the requested Member State shall supply it with any document or certified true copies in its possession which relates to IUU fishing or serious infringements referred to in Article 42(1)(b) and (c) of Regulation (EC) No 1005/2008.

5 The standard form for the exchange of information on request is set out in Annex XI.

Article 46

Requests for enforcement measures

1 A requested Member State shall, based on the evidence referred to in Article 43, at the request of an applicant Member State, or of the Commission, take all necessary enforcement measures to bring about the cessation, within its territory or within maritime waters under its sovereignty or jurisdiction, of any IUU fishing or serious infringements referred to in Article 42(1)(b) and (c) of Regulation (EC) No 1005/2008 without delay.

2 The requested Member State may consult the applicant Member State and the Commission in the course of taking the enforcement measures referred to in paragraph 1.

3 The requested Member State shall report the measures taken and their effect to the applicant Member State, the other Member States concerned and the Commission, via the single authority as referred to in Article 39.

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EC) No 1010/2009. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Article 47

Deadline for replies to requests for information and enforcement measures

1 The requested Member State shall provide the information referred to in Article 45(1) and Article 46 (3) as quickly as possible, but not later than 4 weeks following the date of receipt of the request. Different time limits may be agreed between the requested and the applicant Member State or the Commission.

2 Where the requested Member State is unable to respond to the request by the deadline, it shall inform the applicant Member State or the Commission in writing of the reason for its failure to do so, and indicate when it considers it will be able to respond.

Article 48

Requests for administrative notification

1 A requested Member State shall, at the request of an applicant Member State and in accordance with its national rules governing the notification of similar instruments and decisions, notify the addressee of all instruments and decisions taken in the field covered by Regulation (EC) No 1005/2008 which emanate from the administrative authorities of the applicant Member State and are to be served in the territory of the requested Member State.

2 Requests for notification shall be made using the standard form attached to this Regulation in Annex XII.

3 The requested Member State shall transmit its reply to the applicant Member State immediately after the notification via the single authority referred to in Article 39. The reply shall be made using the standard form attached to this Regulation in Annex XII.

Changes to legislation:

There are outstanding changes not yet made to Commission Regulation (EC) No 1010/2009. Any changes that have already been made to the legislation appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to the whole legislation item and associated provisions

- Annex 2A applied (with modifications) by [S.I. 2020/1599 reg. 6\(2\)\(b\)\(3\)](#)
- Annex 3A applied (with modifications) by [S.I. 2020/1599 reg. 6\(2\)\(b\)\(3\)](#)
- Annex 3B applied (with modifications) by [S.I. 2020/1599 reg. 6\(2\)\(b\)\(3\)](#)
- Art. 4(b) words substituted by [S.I. 2019/739 reg. 12\(4\)\(b\)](#)
- Art. 4(c) words substituted by [S.I. 2019/739 reg. 12\(4\)\(c\)](#)
- Art. 4(d) words substituted by [S.I. 2019/739 reg. 12\(4\)\(d\)](#)
- Art. 21(5)(a) word omitted by [S.I. 2019/739 reg. 12\(15\)\(c\)\(ii\)](#)
- Art. 22(1)(b) words substituted by [S.I. 2019/739 reg. 12\(16\)\(a\)\(ii\)](#)
- Art. 22(1)(b) words substituted by [S.I. 2019/739 reg. 12\(16\)\(a\)\(iii\)](#)
- Art. 27(1)(b) words substituted by [S.I. 2019/739 reg. 12\(21\)\(a\)](#)
- Art. 31(m) omitted by [S.I. 2019/739 reg. 12\(25\)\(c\)](#)