

Commission Implementing Regulation (EU) No 404/2011 of 8 April
2011 laying down detailed rules for the implementation of Council
Regulation (EC) No 1224/2009 establishing a Community control system
for ensuring compliance with the rules of the Common Fisheries Policy

TITLE II

GENERAL CONDITIONS FOR ACCESS TO WATERS AND RESOURCES

CHAPTER IV

Vessel monitoring system

Article 18

Requirement of satellite-tracking devices on [F1Union fishing vessels]

- 1 Without prejudice to Article 25(3) of this Regulation [F1a][F1Union fishing vessel] subject to VMS shall not be allowed to leave a port without a fully operational satellite-tracking device installed on board.
- 2 When [F1a][F1Union fishing vessel] is in port, the satellite-tracking device may only be switched off if:
- a prior notification has been given to the fisheries monitoring centre (FMC) of the flag Member State and the FMC of the coastal Member State; and
 - b providing that the next report shows that the [F1Union fishing vessel] has not changed its position in relation to the previous report.

The competent authorities of the flag Member State may allow to replace the prior notification referred to in (a) with an automatic VMS message or alarm generated by the system, indicating that the [F1Union fishing vessel] is within a pre-defined geographical area of a port.

- 3 This Chapter shall not apply to [F1Union fishing vessels] used exclusively for the exploitation of aquaculture.

Textual Amendments

- F1** Substituted by [Commission Implementing Regulation \(EU\) 2015/1962 of 28 October 2015 amending Implementing Regulation \(EU\) No 404/2011 laying down detailed rules for the implementation of Council Regulation \(EC\) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy.](#)

Status: Point in time view as at 20/11/2015.

Changes to legislation: There are outstanding changes not yet made to Commission Implementing Regulation (EU) No 404/2011. 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)

Article 19

Characteristics of satellite-tracking devices

1 The satellite-tracking device installed on board [^{F1}Union fishing vessels] shall ensure the automatic transmission to the FMC of the flag Member State, at regular intervals, of data relating to:

- a the fishing vessel identification;
- b the most recent geographical position of the fishing vessel, with a position error which shall be less than 500 metres, with a confidence interval of 99 %;
- c the date and time (expressed in Coordinated Universal Time (UTC)) of the fixing of the said position of the fishing vessel; and
- d the instant speed and course of the fishing vessel.

2 Member States shall ensure that satellite-tracking devices are protected against input or output of false positions and cannot be manually over-ridden.

Textual Amendments

- F1** Substituted by [Commission Implementing Regulation \(EU\) 2015/1962 of 28 October 2015 amending Implementing Regulation \(EU\) No 404/2011 laying down detailed rules for the implementation of Council Regulation \(EC\) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy.](#)

Article 20

Responsibilities of the masters concerning the satellite-tracking devices

1 The masters of [^{F1}a][^{F1}Union fishing vessel] shall ensure that the satellite-tracking devices are fully operational at all times and that the data referred to in Article 19(1) of this Regulation are transmitted.

2 Without prejudice to Article 26(1) of this Regulation, the master of [^{F1}a][^{F1}Union fishing vessel] shall ensure in particular that:

- a the data are not altered in any way;
- b the antenna or the antennas connected to the satellite tracking devices are not obstructed, disconnected or blocked in any way;
- c the power supply of the satellite-tracking devices is not interrupted in any way; and
- d the satellite-tracking device is not removed from the fishing vessel.

3 It shall be prohibited to destroy, damage, render inoperative or otherwise interfere with the satellite-tracking device unless the competent authorities of the flag Member State have authorised its repair or replacement.

Textual Amendments

- F1** Substituted by [Commission Implementing Regulation \(EU\) 2015/1962 of 28 October 2015 amending Implementing Regulation \(EU\) No 404/2011 laying down detailed rules for the implementation](#)

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of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy.

Article 21

Control measures to be adopted by flag Member States

Each flag Member State shall ensure the continuous and systematic monitoring and control of the accuracy of the data referred to in Article 19 of this Regulation, and shall act promptly whenever data are found to be inaccurate or incomplete.

Article 22

Frequency of data transmission

- 1 Each Member State shall ensure that its FMC receives, at least once every 2 hours, through the VMS the information referred to in Article 19 of this Regulation concerning its fishing vessels. The FMC may require the information at shorter time intervals.
- 2 The FMC shall have the capacity of polling the actual position of each of its fishing vessel.

Article 23

Monitoring of entry into and exit from specific areas

Each Member State shall ensure that through VMS data its FMC monitors, as regards its fishing vessels, date and time of entry into and exit from:

- (a) any maritime area where specific rules on access to waters and resources apply;
- (b) fishing restricted areas referred to in Article 50 of the Control Regulation;
- (c) regulatory areas of the Regional Fisheries Management Organisations to which the European Union or certain Member States are a party;
- (d) waters under the sovereignty and jurisdiction of a third country.

Article 24

Transmission of data to the coastal Member State

[^{F1} The FMC of each flag Member State shall ensure the automatic transmission to the FMC of a coastal Member State of the data provided in accordance with Article 19 of this Regulation concerning its fishing vessels during the time they are in the waters of the coastal Member State. Such data shall be forwarded to the FMC of the coastal State immediately after the receipt at the FMC of the flag Member State.]

- 2 Coastal Member States monitoring jointly an area may specify a common destination for the transmission of the data to be provided in accordance with Article 19 of this Regulation. They shall inform the Commission and the other Member States thereof.

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3 Each Member State shall transmit to the other Member States and the Commission in a, where possible electronic, format compatible with the World Geodetic System 1984 (WGS 84) a comprehensive list of the latitude and longitude coordinates which delineate its exclusive economic zone or exclusive fishery zone. It shall also communicate to the other Member States and the Commission any changes of these coordinates. Alternatively Member States may publish this list on the website referred to in Article 115 of the Control Regulation.

4 Member States shall ensure effective coordination between their competent authorities regarding the transmission of VMS data in accordance with Article 9(3) of the Control Regulation, including through the establishment of clear and documented procedures for this purpose.

Textual Amendments

- F1** Substituted by [Commission Implementing Regulation \(EU\) 2015/1962 of 28 October 2015 amending Implementing Regulation \(EU\) No 404/2011 laying down detailed rules for the implementation of Council Regulation \(EC\) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy.](#)

Article 25

Technical failure or non-functioning of the satellite-tracking device

1 In the event of a technical failure or non-functioning of the satellite-tracking device fitted on board a [^{F1}Union fishing vessel], the master or his representative shall, starting from the time that the event was detected or from the time that he was informed in accordance with paragraph 4 or Article 26(1) of this Regulation, communicate every 4 hours, to the FMC of the flag Member State the up-to-date geographical coordinates of the fishing vessel by appropriate telecommunication means. Member States shall decide on the telecommunication means to be used and indicate them on the website referred to in Article 115 of the Control Regulation.

2 The FMC of the flag Member State shall enter the geographical positions referred to in paragraph 1 into the VMS database without delay on their receipt. The manual VMS data shall be clearly distinguishable in a database from automatic messages. Where appropriate, those manual VMS data shall be transmitted without delay to coastal Member States.

3 Following a technical failure or non-functioning of the satellite-tracking device, [^{F1}a][^{F1}Union fishing vessel] may only leave port once the satellite-tracking device fitted on board is fully functioning to the satisfaction of the competent authorities of the flag state. By derogation the FMC of the flag Member State may authorise its fishing vessels to leave the port with a non-functioning satellite-tracking device for its repair or replacement.

4 The competent authorities of the flag Member State or, where appropriate, of the coastal Member State shall seek to inform the master of or the person responsible for the vessel or their representative when the satellite-tracking device fitted on board a [^{F1}Union fishing vessel] appears to be defective or not fully functioning.

5 The removal of the satellite-tracking device for repair or replacement shall be subject to the approval of the competent authorities of the flag Member State.

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Article 26

Non-receipt of data

1 When the FMC of a flag Member State has not received data transmissions in accordance with Article 22 or Article 25(1) of this Regulation for 12 consecutive hours it shall notify the master or the operator of the [^{F1}Union fishing vessel] or their representative(s) thereof as soon as possible. If, in respect of an EU particular fishing vessel, that situation occurs more than three times within a period of a calendar year, the flag Member State shall ensure that the satellite-tracking device of the fishing vessel is thoroughly checked. The flag Member State shall investigate the matter in order to establish whether the equipment has been tampered with. By way of derogation from Article 20(2)(d) of this Regulation, that investigation may entail the removal of such equipment for examination.

2 When the FMC of a flag Member State has not received data transmissions for 12 hours in accordance with Article 22 or Article 25(1) of this Regulation and the last received position was from within the waters of another Member State it shall notify the FMC of that coastal Member State thereof as soon as possible.

3 When the competent authorities of a coastal Member State observe [^{F1}a][^{F1}Union fishing vessel] in its waters and have not received data in accordance with Article 24(1) or 25(2) of this Regulation, they shall notify the master of the fishing vessel and the FMC of the flag Member State thereof.

Textual Amendments

- F1** Substituted by [Commission Implementing Regulation \(EU\) 2015/1962 of 28 October 2015 amending Implementing Regulation \(EU\) No 404/2011 laying down detailed rules for the implementation of Council Regulation \(EC\) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy.](#)

Article 27

Monitoring and recording of the fishing activities

1 Member States shall use the data received pursuant to Article 22, Article 24(1) and Article 25 of this Regulation for the effective monitoring of the activities of fishing vessels.

2 Flag Member States shall:

- a ensure that data received according to this Chapter are recorded in computer-readable form and safely stored in computerised databases for at least 3 years;
- b take all necessary measures to ensure that they are only used for official purposes; and

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- c take all necessary technical measures to protect such data against any accidental or illicit destruction, accidental loss, deterioration, distribution or unauthorised consultation.

[^{F1}Article 28

Access to data by the Commission

The Commission may request Member States in accordance with Article 111(1)(a) of the Control Regulation to ensure the automatic transmission, to the Commission or to the body designated by it, of the data provided in accordance with Article 19 of this Regulation concerning a specific group of fishing vessels and during a specific time. Such data shall be forwarded to the Commission or to the body designated by it immediately after the receipt at the FMC of the flag Member State.]

Textual Amendments

- F1** Substituted by [Commission Implementing Regulation \(EU\) 2015/1962 of 28 October 2015 amending Implementing Regulation \(EU\) No 404/2011 laying down detailed rules for the implementation of Council Regulation \(EC\) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy.](#)

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