

Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund and repealing Council Regulations (EC) No 2328/2003, (EC) No 861/2006, (EC) No 1198/2006 and (EC) No 791/2007 and Regulation (EU) No 1255/2011 of the European Parliament and of the Council

TITLE VII

**IMPLEMENTATION UNDER SHARED MANAGEMENT**

*CHAPTER I*

***General provisions***

*Article 93*

**Scope**

This Title shall apply to measures financed under shared management as set out in Title V.

*CHAPTER II*

***Delivery mechanism***

*Section 1*

***Support from the EMFF***

*Article 94*

**Determination of co-financing rates**

1 When adopting implementing acts pursuant to Article 19 approving an operational programme, the Commission shall set the maximum EMFF contribution to that programme.

2 The EMFF contribution shall be calculated on the basis of the amount of eligible public expenditure.

The operational programme shall establish the EMFF contribution rate applicable to the Union priorities set out in Article 6. The maximum EMFF contribution rate shall be 75 % and the minimum EMFF contribution rate shall be 20 % of eligible public expenditure.

3 By way of derogation from paragraph 2, the EMFF contribution shall be:

- a 100 % of the eligible public expenditure for the support under storage aid referred to in Article 67;

- b 100 % of the eligible public expenditure for the compensation regime referred to in Article 70;
  - c 50 % of the eligible public expenditure for the support referred to in Articles 33, 34 and Article 41(2);
  - d 70 % of the eligible public expenditure for the support referred to in point (e) of Article 76(2);
  - e 90 % of the eligible public expenditure for the support referred to in points (a) to (d) and (f) to (l) of Article 76(2);
  - f 80 % of the eligible expenditure for the support referred to in Article 77.
- 4 By way of derogation from paragraph 2, the maximum EMFF contribution rate applicable to the specific objectives under a Union priority shall be increased by ten percentage points, where the whole of the Union priority set out in Article 6(4) is delivered through community-led local development.

#### *Article 95*

#### **Intensity of public aid**

- 1 Member States shall apply a maximum intensity of public aid of 50 % of the total eligible expenditure of the operation.
- 2 By way of derogation from paragraph 1, Member States may apply an intensity of public aid of 100 % of the eligible expenditure of the operation where:
- a the beneficiary is a public law body or an undertaking entrusted with the operation of services of general economic interest as referred to in Article 106(2) TFEU, where the aid is granted for the operation of such services;
  - b the operation is related to the storage aid referred to in Article 67;
  - c the operation is related to the compensation regime referred to in Article 70;
  - d the operation is related to the data collection referred to in Article 77;
  - e the operation is related to support under Article 33 or 34 or to compensation under Article 54, 55 or 56;
  - f the operation is related to the IMP measures referred to in Article 80.
- 3 By way of derogation from paragraph 1, Member States may apply an intensity of public aid between 50 % and 100 % of the total eligible expenditure where:
- a the operation is implemented under Chapter I, II or IV of Title V and fulfils all of the following criteria:
    - (i) it is of collective interest;
    - (ii) it has a collective beneficiary;
    - (iii) it has innovative features, where appropriate, at local level;
  - b the operation is implemented under Chapter III of Title V, fulfils one of the criteria referred to in points (a)(i), (ii) or (iii) of this paragraph and provides public access to its results.
- 4 By way of derogation from paragraph 1, additional percentage points of public aid intensity shall apply for specific types of operations as set out in Annex I.
- 5 The Commission shall adopt implementing acts establishing how the different percentage points of public aid intensity shall apply in case several conditions of Annex I

are fulfilled. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).

#### *Article 96*

### **Calculation of additional costs or income foregone**

Where aid is granted on the basis of additional costs or income foregone, Member States shall ensure that the relevant calculations are adequate, accurate and established in advance on the basis of a fair, equitable and verifiable calculation.

## *CHAPTER III*

### ***Management and control systems***

#### *Article 97*

### **Managing authority**

1 In addition to the general rules set out in Article 125 of Regulation (EU) No 1303/2013, the managing authority shall:

- a by 31 March each year, provide the Commission with relevant cumulative data on operations selected for funding until the end of the previous calendar year, including key characteristics of the beneficiary and the operation itself;
- b ensure publicity for the operational programme by informing potential beneficiaries, professional organisations, the economic and social partners, bodies involved in promoting equality between men and women, and the non-governmental organisations concerned, including environmental organisations, of the possibilities offered by the programme and the rules for gaining access to programme funding;
- c ensure publicity for the operational programme by informing beneficiaries of the Union contribution and the general public of the role played by the Union in the programme.

2 The Commission shall adopt implementing acts laying down rules for the presentation of the data referred to in point (a) of paragraph 1. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 127(2).

#### *Article 98*

### **Transmission of financial data**

1 By 31 January and 31 July, the Member States shall transmit, by electronic means, to the Commission a forecast of the amount for which they expect to submit payment applications for the current and for the subsequent financial year.

2 The Commission shall adopt an implementing act establishing the model to be used when submitting the financial data to the Commission. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 127(3).

## CHAPTER IV

### **Control by Member States**

#### *Article 99*

#### **Financial corrections by Member States**

1 In addition to the financial corrections referred to in Article 143 of Regulation (EU) No 1303/2013, Member States shall make financial corrections if the beneficiary does not respect the obligations referred to in Article 10(2) of this Regulation.

2 In the cases of financial corrections referred to in paragraph 1, Member States shall determine the amount of the correction, which shall be proportionate, having regard to the nature, gravity, duration and repetition of the infringement or offence by the beneficiary and the importance of the EMFF contribution to the economic activity of the beneficiary.

## CHAPTER V

### **Control by the Commission**

#### *Section 1*

#### **Interruption and suspension**

#### *Article 100*

#### **Interruption of the payment deadline**

1 In addition to the criteria allowing for interruption listed in points (a), (b) and (c) of Article 83(1) of Regulation (EU) No 1303/2013, the authorising officer by delegation, within the meaning of Regulation (EU, Euratom) No 966/2012, may interrupt the payment deadline for an interim payment claim in the case of non-compliance by a Member State with its obligations under the CFP which is liable to affect the expenditure contained in a certified statement of expenditure for which the interim payment is requested.

2 Prior to the interruption of an interim payment deadline as referred to in paragraph 1, the Commission shall, adopt implementing acts recognising that there is evidence suggesting non-compliance with obligations under the CFP. Before the Commission adopts such implementing acts, it shall immediately inform the Member State concerned of such evidence or reliable information and the Member State shall be given the opportunity to present its observations within a reasonable period of time.

3 The interruption of all or part of the interim payments related to the expenditure referred to in paragraph 1 covered by the payment claim shall be proportionate, having regard to the nature, gravity, duration and repetition of the non-compliance.

### *Article 101*

#### **Suspension of payments**

1 In addition to Article 142 of Regulation (EU) No 1303/2013, the Commission may adopt implementing acts suspending all or part of the interim payments under the operational programme in the case of a serious non-compliance by a Member State with its obligations under the CFP, which is liable to affect the expenditure contained in a certified statement of expenditure for which the interim payment is requested.

2 Prior to the suspension of an interim payment as referred to in paragraph 1, the Commission shall adopt an implementing act recognising that a Member State has failed to comply with its obligations under the CFP. Before the Commission adopts such an implementing act, it shall immediately inform the Member State concerned of such findings or reliable information and the Member State shall be given the opportunity to present its observations on the matter.

3 The suspension of all or part of the interim payments related to the expenditure referred to in paragraph 1 covered by the payment claim shall be proportionate, having regard to the nature, gravity, duration and repetition of the serious non-compliance.

### *Article 102*

#### **Commission powers**

The Commission shall be empowered to adopt delegated acts, in accordance with Article 126, defining those cases of non-compliance, referred to in Article 100, and the cases of serious non-compliance, referred to in Article 101(1), deriving from the relevant CFP rules that are essential to the conservation of marine biological resources.

### *Section 2*

#### ***Information exchange and financial corrections***

### *Article 103*

#### **Access to information**

On request by the Commission, Member States shall communicate to the Commission the laws, regulations and administrative provisions which they have adopted for implementing Union acts relating to the CFP, where those acts have a financial impact on the EMFF.

#### *Article 104*

### **Confidentiality**

1 Member States and the Commission shall take all necessary steps to ensure the confidentiality of the information communicated or obtained during on-the-spot controls or in the context of the clearance of accounts implemented pursuant to this Regulation.

2 The principles referred to in Article 8 of Council Regulation (Euratom, EC) No 2185/96<sup>(1)</sup> shall apply to the information referred to in paragraph 1 of this Article.

#### *Article 105*

### **Financial corrections by the Commission**

1 In addition to the cases referred to in Article 22(7), Article 85 and Article 144(1) of Regulation (EU) No 1303/2013, the Commission shall adopt implementing acts making financial corrections by cancelling all or part of the Union contribution to an operational programme if, after carrying out the necessary examination, it concludes that:

- a expenditure contained in a certified statement of expenditure is affected by cases in which the beneficiary does not respect the obligations referred to in Article 10(2) of this Regulation and has not been corrected by the Member State prior to the opening of the correction procedure under this paragraph;
- b expenditure contained in a certified statement of expenditure is affected by cases of serious non-compliance with the CFP rules by the Member State which have resulted in the suspension of payment under Article 101 of this Regulation and where the Member State concerned still fails to demonstrate that it has taken the necessary remedial action to ensure compliance with and the enforcement of applicable rules in the future.

2 The Commission shall decide on the amount of the correction taking into account the nature, gravity, duration and repetition of the serious non-compliance by the Member State or beneficiary with the CFP rules and the importance of the EMFF contribution to the economic activity of the beneficiary concerned.

3 Where it is not possible to quantify precisely the amount of expenditure linked to non-compliance with the CFP rules by the Member State, the Commission shall apply a flat rate or extrapolated financial correction in accordance with paragraph 4.

4 The Commission shall be empowered to adopt delegated acts, in accordance with Article 126, determining the criteria for establishing the level of financial correction to be applied and the criteria for applying flat rates or extrapolated financial corrections.

#### *Article 106*

### **Procedure**

Article 145 of Regulation (EU) No 1303/2013 shall apply *mutatis mutandis* where the Commission proposes a financial correction referred to in Article 105 of this Regulation.

## CHAPTER VI

### **Monitoring, evaluation, information and communication**

#### *Section 1*

#### **Establishment and objectives of a common monitoring and evaluation system**

##### *Article 107*

#### **Monitoring and evaluation system**

1 A common monitoring and evaluation system for EMFF operations under shared management shall be established with a view to measuring the performance of the EMFF. In order to ensure an effective performance measurement, the Commission shall be empowered to adopt delegated acts, in accordance with Article 126, defining the content and construction of that system.

2 The general impact of the EMFF shall be considered in relation to the Union priorities set out in Article 6.

The Commission may adopt implementing acts establishing the set of indicators specific to those Union priorities. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).

3 Member States shall provide the Commission with all the information necessary to permit the monitoring and evaluation of the measures concerned. The Commission shall take into account the data needs and synergies between potential data sources, in particular their use for statistical purposes when appropriate. The Commission shall adopt implementing acts laying down rules on the information to be sent by Member States, as well as on the data needs and synergies between potential data sources. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).

4 The Commission shall present a report on the implementation of this Article to the European Parliament and to the Council every four years. The first report shall be presented by 31 December 2017.

##### *Article 108*

#### **Objectives**

The objectives of the common monitoring and evaluation system shall be:

- (a) to demonstrate the progress and achievements of the CFP and the IMP, to consider the general impact and to assess the effectiveness, efficiency and relevance of EMFF operations;
- (b) to contribute to better targeted support for the CFP and the IMP;
- (c) to support a common learning process related to monitoring and evaluation;
- (d) to provide robust, evidenced based evaluations of the EMFF operations that feed into the decision-making process.

## *Section 2*

### **Technical provisions**

#### *Article 109*

##### **Common indicators**

1 A list of common indicators relating to the initial situation as well as to the financial execution, outputs and results of the operational programme and applicable to each operational programme shall be specified in the monitoring and evaluation system provided for in Article 107 to allow for aggregation of data at Union level.

2 The common indicators shall be linked to the milestones and targets established in the operational programmes in accordance with the Union priorities set out in Article 6. Those common indicators shall be used for the performance review referred to in Article 21(1) of Regulation (EU) No 1303/2013, and shall allow assessment of the progress, efficiency and effectiveness of policy implementation against objectives and targets at Union and programme level.

#### *Article 110*

##### **Electronic information system**

1 Key information on the implementation of the operational programme, on each operation selected for funding, as well as on completed operations, needed for monitoring and evaluation, including the key characteristics of the beneficiary and the project, shall be recorded and maintained electronically.

2 The Commission shall ensure that there is an appropriate secure electronic system to record, maintain and manage key information and report on monitoring and evaluation.

#### *Article 111*

##### **Provision of information**

Beneficiaries of support under EMFF, including FLAGs, shall undertake to provide to the managing authority and/or to appointed evaluators or other bodies to which the performance of functions on its behalf is delegated, all the data and information necessary to permit monitoring and evaluation of the operational programme, in particular in relation to meeting specific objectives and priorities.



### Section 3

#### **Monitoring**

##### Article 112

#### **Monitoring procedures**

- 1 The managing authority referred to in Article 97 of this Regulation and the monitoring committee referred to in Article 47 of Regulation (EU) No 1303/2013 shall monitor the quality of programme implementation.
- 2 The managing authority and the monitoring committee shall carry out monitoring of the operational programme by means of financial, output and result indicators.

##### Article 113

#### **Functions of the monitoring committee**

In addition to the functions provided for in Article 49 of Regulation (EU) No 1303/2013, the monitoring committee shall verify the performance of the operational programme and the effectiveness of its implementation. For that purpose, the monitoring committee shall:

- (a) be consulted and shall approve, within six months of the decision approving the programme, the selection criteria for the financed operations; the selection criteria shall be revised in accordance with programming needs;
- (b) examine the activities and outputs related to the evaluation plan of the programme;
- (c) examine actions in the programme relating to the fulfilment of specific *ex ante* conditionalities;
- (d) examine and approve the annual implementation reports before they are sent to the Commission;
- (e) examine actions to promote equality between men and women, equal opportunities, and non-discrimination, including accessibility for disabled persons.

The monitoring committee shall not be consulted on the work plans for data collection referred to in Article 21.

##### Article 114

#### **Annual implementation report**

1 By 31 May 2016, and by 31 May of each subsequent year up to and including 2023, Member States shall submit to the Commission an annual implementation report on the implementation of the operational programme in the previous calendar year. The report submitted in 2016 shall cover the calendar years 2014 and 2015.

- 2 In addition to the provisions of Article 50 of Regulation (EU) No 1303/2013, annual implementation reports shall include:
  - a information on financial commitments and expenditure by measure;

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- b a summary of the activities undertaken in relation to the evaluation plan;
  - c information on the actions taken in cases of serious infringements as referred to in Article 10(1) of this Regulation, and of non-respect of the conditions laid down in Article 10(2) of this Regulation, as well as on remedy actions;
  - d information on actions taken to comply with Article 41(10) of this Regulation.;
  - e information on the actions taken to ensure the publication of beneficiaries in accordance with Annex V to this Regulation, for natural persons in accordance with national law, including any applicable threshold.
- 3 The Commission shall adopt implementing acts laying down rules concerning the format and presentation of the annual implementation reports. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).

#### *Section 4*

#### ***Evaluation***

#### *Article 115*

#### **General provisions**

1 The Commission shall adopt implementing acts laying down the elements to be contained in *ex ante* evaluation reports referred to in Article 55 of Regulation (EU) No 1303/2013 and establishing the minimum requirements for the evaluation plan referred to in Article 56 of that Regulation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3) of this Regulation.

2 Member States shall ensure that the evaluations conform to the common monitoring and evaluation system agreed in accordance with Article 107, shall organise the production and gathering of the necessary data, and shall supply the various pieces of information provided by the monitoring system to the evaluators.

3 The evaluation reports shall be made available by Member States on the internet and by the Commission on the Union website.

#### *Article 116*

#### **Ex ante evaluation**

Member States shall ensure that the *ex ante* evaluator is involved from an early stage in the process of development of the operational programme, including the development of the analysis referred to in point (a) of Article 18(1), the design of the programme's intervention logic and the establishment of the programme's targets.

#### *Article 117*

#### **Ex post evaluation**

In accordance with Article 57 of Regulation (EU) No 1303/2013, an *ex post* evaluation report shall be prepared by the Commission in close cooperation with Member States.

## Article 118

### **Synthesis of evaluations**

A synthesis at Union level of the *ex ante* evaluation reports shall be undertaken under the responsibility of the Commission. The synthesis of the evaluation reports shall be completed at the latest by 31 December of the year following the submission of the relevant evaluations.

## Section 5

### **Information and communication**

## Article 119

### **Information and publicity**

1 The managing authority shall be responsible in accordance with point (b) of Article 97(1) for:

- a ensuring the establishment of a single website or a single website portal providing information on, and access to, the operational programme in the Member State;
- b informing potential beneficiaries about funding opportunities under the operational programme;
- c publicising to Union citizens the role and achievements of the EMFF through information and communication actions on the results and impact of partnership agreements, operational programmes and operations;
- d ensuring that a summary of measures designed to ensure compliance with the CFP rules, including cases of non-compliance by Member States or beneficiaries, as well as of remedy actions such as financial corrections taken, is made publicly available.

2 In order to ensure transparency concerning the support from the EMFF, Member States shall maintain a list of operations in CSV or XML format which shall be accessible through the single website or the single website portal, providing a list of operations and a summary of the operational programme.

The list of operations shall be updated at least every six months.

The minimum information to be set out in the list of operations, including specific information concerning operations under Articles 26, 39, 47, 54 and 56, is laid down in Annex V.

3 Detailed rules concerning the information and publicity measures for the public and information measures for applicants and beneficiaries are laid down in Annex V.

4 The Commission shall adopt implementing acts laying down the technical characteristics of information and publicity measures for the operation, instructions for creating the emblem and a definition of the standard colours. Those implementing acts shall be adopted in accordance with the advisory procedure referred to Article 127(2).

- (1) Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities ([OJ L 292, 15.11.1996, p. 2](#)).