

EXPLANATORY FICHE NO XX

FIRST DRAFT LIST OF CASES OF NON-COMPLIANCE WITH CFP RULES BY MEMBER STATES THAT MIGHT TRIGGER THE INTERRUPTION OF THE PAYMENT DEADLINE, THE SUSPENSION OF EMFF FUNDS OR A FINANCIAL CORRECTION

VERSION 2 – 18.11.2020

RELEVANT PROVISIONS IN THE DRAFT LEGISLATION

Regulation	Provisions
EMFF Proposal	Article 33 on interruption of the payment deadline Article 34 on suspension of payments Article 36 on financial corrections by the Commission
CPR Proposal	Article 90 on interruption of the payment deadline Article 91 on suspension of payments Article 98 on financial corrections by the Commission

This document is based on the text of the adopted Commission proposals for the new EMFF as well as for the Common Provisions Regulation. It is a provisional text, without prejudice to on-going discussions. This series of fiches is intended to guide Member States, explaining and elaborating the text of the proposal. A first discussion occurred at the EMFF Expert Group on 3 June 2020. At the EMFF Expert Group of 23 September, Member States were reminded to send comments on the draft fiche of cases. This new fiche takes on board comments received by Member States further to these 2 EMFF Expert Groups.

OBJECTIVE OF THIS FICHE

As in the 2014-2020 EMFF, the 2021-2027 EMFF proposal provides that the Commission is empowered to adopt delegated acts defining the cases of **non-compliance** and the cases of **serious non-compliance** with CFP rules that may trigger the interruption of the payment deadline, the suspension of EMFF payments or even a financial correction **when non-compliance is liable to affect expenditure contained in a payment application**.¹

The purpose of this technical fiche is to have a second discussion with Member States on a first draft list of cases of non-compliance that may be retained in the 2021-2027 delegated act. As cases of non-compliance that are not resolved during the interruption of the payment deadline become serious cases of non-compliance, the same list of cases covers in reality the cases of non-compliance and of serious non-compliance. This is a first draft list which has not yet been fully discussed internally in the Commission and that may still be subject to changes.

Please note that this fiche on cases of non-compliance is an updated version of the fiche that was presented on 10 June 2020. It takes on board comments received² and complements the previous fiche on non-compliance with CFP rules by Member States that was presented at the EMFF Expert Group on 9 April 2019 and related to applicable procedures. You will find below the link to this fiche:

https://ec.europa.eu/fisheries/sites/fisheries/files/docs/body/2019-04-09-fiche-non-compliance_en.pdf

LEGAL BASIS AND RATIONALE

The principle of conditioning financial assistance to Member States with compliance to CFP rules is included in the CFP Regulation 1380/2013, which lays down in its Art. 41 that “*Union financial assistance to Member States shall be conditional upon compliance with the CFP rules by Member States*”. It is also present in Article 33 (Interruption of the payment deadline), 34 (Suspension of payments) and 36 (Financial corrections by the Commission) of the EMFF proposal. CPR rules complement this legislation in this regard, while also referring to EMFF specific rules.

This conditionality principle is already present in the 2014-2020 programming period, where both the CFP and EMFF Regulations provide for the possibility to interrupt the deadline for EMFF payments in case of non-compliance by MS with CFP rules, and to suspend payments to the relevant programme in cases of serious non-compliance. Those cases of non-compliance are currently defined in Commission Delegated Regulation 2015/852³. You will find in annex II the list of cases of non-compliance in the 2014-2020 programming period.

This tool is specific to the EMFF, as other funds do not include similar provisions.

HOW WOULD THE SYSTEM WORK?

As in the current programming period, in order to safeguard the financial interests of the Union and its taxpayers, in each case of non compliance that has been formally notified to the

¹ See Art. 33(4), 34(4) and 36(1) of the EMFF proposal COM(2018)390

² The following Member States provided comments: CZ, DK, FI, FR, HU, LV, LT, NL.

³ Commission Delegated Regulation (EU) No 2015/852 of 27 March 2015 supplementing Regulation (EU) No 508/2014 of the European Parliament and of the Council (OJ L 135, 2.6.2015, p. 13)

Member State and which is included in the delegated act, the payment deadline of the expenditure affected by the non-compliance would be interrupted. If the non-compliance is not resolved during the interruption period, the case of non-compliance would become serious and may lead to the suspension of the payment of concerned expenditure in order to avoid the risk of paying out ineligible expenditure,.

As the future EMFF Regulation is not still finalised and its architecture is still moving, it is not possible at this stage to say precisely which expenditure would be concerned. However, it is worth mentioning that, among the 4 priorities of the next EMFF⁴, most cases of non-compliance with CFP rules will be linked to Priority 1 dealing with sustainable fisheries and conservation of marine resources. The expenditure that will be subject to the interruption of the payment deadline will have to be linked to and affected by the case of non-compliance and its amount will be determined in accordance with the proportionality principle, having regard to the nature, gravity, duration and repetition of the non-compliance

COMPARISON WITH EX-ANTE CONDITIONALITIES.

In addition to the cases of non-compliance defined in this Delegated Act, the 2014-2020 EMFF includes in its Annex IV specific ex-ante conditionalities (EACs)⁵, which had to be met before EMFF interim payments could take place. There were some overlaps between these EACs and the list of cases established in the 2014-2020 Delegated Regulation.

In the 2021-2027 programming period, EACs are replaced by enabling conditions. For the 2021-2027 EMFF, only horizontal enabling conditions will be applicable⁶, and there will not be any specific enabling condition for the EMFF.

This will represent an administrative simplification both for the Commission and Member States, and will eliminate the potential overlaps between the procedures.

DRAFT LIST OF NON-COMPLIANCE CASES TO BE RETAINED FOR THE 2021-2027 EMFF

A first draft list of non-compliance cases (with each relevant legal basis) is available in the table in annex I.

In order to protect EMFF funds and avoid that payments are done for expenditure linked to cases of non-compliance by Member States, this 2021-2027 list of proposed cases adds cases which were left aside in the 2014-2020 period as well as takes on board lessons learned from the 2014-2020 period.

The main changes compared to the 2014-2020 cases are as follows:

- cases are grouped into different categories presenting a strong link with the CFP;
- IUU, control and enforcement are grouped into 3 different categories;
- cases which are already included in the CFP Regulation⁷ will only be reminded to in the next delegated act in order to have all cases leading to potential interruption/suspension referred to in a single act.

⁴ Priority 1 is related to sustainable fisheries and conservation of marine biological resources; priority 2 to food security (through aquaculture and markets), priority 3 to a sustainable blue economy and prosperous coastal communities (CLLD) and priority 4 to international ocean governance and safe oceans

⁵ These encompassed the submission of a report on fishing capacity, the establishment of a multiannual national strategic plan on aquaculture and the administrative capacity to comply with the data collection framework and the control regulation.

⁶ These general enabling conditions are related to public procurements, state aids, the EU Charter of Fundamental rights and the United Nations Convention on the rights of persons with disabilities.

⁷ Fleet policy (See Art. 22(4) of the CFP Regulation) and Data Collection (Art. 25(7) of the CFP Regulation).

- it is suggested to add new cases, in particular in relation to non-compliance with the monitoring of the landing obligation, the obligations resulting from Title IV of the Control Regulation, from the Common Market Organization Regulation and from the new Technical Measures Regulation (which now includes also obligations linked to sensitive species and habitats).

QUESTIONS

- Do you have comments on this first draft list of non-compliance cases for the 2021-2027 period?
- Are there any case you would like to be added or removed, and why?

ANNEX I : FIRST DRAFT LIST OF CASES OF NON-COMPLIANCE FOR THE 2021-2027 PROGRAMMING PERIOD AND THEIR LEGAL BASIS.

Draft cases of non-compliance	Legal basis
Category 1: Failure to ensure that fishing opportunities allocated to the MS pursuant to Art. 16-17 of CFP Regulation (EU) 1380/2013 are respected	
1.1 Failure to monitor the use of fishing opportunities via logbook, transshipment declarations, landing declarations, sales notes, or take-over notes and/or failure to monitor the fishing effort	Art. 9, 14,16, 21 to 24, 26, 33, 62 and 66 of Control Regulation (EC) No 1224/2009
1.2. Failure to close fisheries when quotas, including under SFPAs and RFMOs, and/or fishing effort have been exhausted.	Art. 35 of Control regulation (EC) 1224/2009
1.3 Failure to respect rules on fishing licence and authorisation;	Art. 6(2) to (4), 7(2) and 7(4) of Control Regulation (EC) No 1224/2009
1.4 Failure to notify the Commission with the aggregated data on catches and fishing effort.	Art. 33 (2) and (4) of Control Regulation (EC) 1224/2009
Category 2: Failure to respect conservation measures and/or protect sensitive species and habitats for the purpose of achieving environmentally sustainable fishing and aquaculture activities in the long-term as set out in Art. 2 of the CFP	
2.1 Failure to ensure detailed and accurate documentation of all fishing trips and adequate capacity and means in order to monitor compliance with the landing obligation in accordance with the principle of efficiency and proportionality.	Art. 15(13) of the CFP Regulation 1380/2013
2.2 Failure to inform the Commission when fishing operations by commercial vessels for research purposes involve more than 6 commercial vessels and/or failure to amend the conditions of the scientific research in accordance with STECF advice.	Art. 25(e) of Regulation 2019/1241 on Technical Measures
2.3 Failure to submit a plan in line with Article 31 (3) setting out the actions to be taken to contribute to achieving those objectives and targets that, according to the report provided by the COM in line with Article 31 (1), have not been met at regional level	Art. 31 (1) and (3) of Regulation 2019/1241 on Technical Measures
2.4. Failure to implement the prohibition of catches, retention on board, transshipment or landing of fish or shellfish species referred to in Annex IV to Directive 92/43/EEC (except when derogations are granted under Article 16 of that Directive) in line with Article 10 of the Technical Measures Regulation..	Art. 10 of Regulation (EU) 2019/1241 on Technical Measures.
2.5. Failure to implement the prohibition of catches, retention on board, transshipment or landing of marine mammals or marine reptiles referred to in Annexes II and IV to Directive 92/43/EEC and of species of seabirds covered by Directive 2009/147/EC in line with Article 11 of the Technical Measures Regulation..	Art. 11 of Regulation (EU) 2019/1241 on Technical Measures.
2.6. Failure to prohibit the deployment of fishing gears specified in Annex II of TM Regulation in order to protect sensitive habitats (including vulnerable marine ecosystems).	Art. 12 of Regulation (EU) 2019/1241 on Technical Measures.
2.7. Failure to monitor and implement mitigation measures in order to reduce incidental catches of sensitive species.	Art 11 (4) and Annex XIII , point 4, of Regulation (EU) 2019/1241 on Technical Measures

2.8. Failure to establish and implement eel management plans.	Art. 2(1), 2(3), 2(10), 5(2), 6(1) of Council Regulation No 1100/2007 on European eels.
2.9. Failure to respect conservation measures on eels (reduction of fishing effort where applicable and reaching of targets) and/or failure to report to the Commission on the monitoring, effectiveness and outcome of those measures as set out in Regulation No 1100/2007.	Art. 8(1) and 9 of Council Regulation 1100/2007 on European eels .
2.10. Failure to submit to the Commission an annual report on the implementation of rules regarding shark finning.	Art. 6 of Regulation (EC) No 1185/2003 of 26 June 2003 on the removal of fins of sharks on board vessels
Category 3: Failure to meet international obligations in order to ensure sustainable exploitation, management and conservation of marine resources and environment as set out in Art. 28 of the CFP Regulation 1380/2013	
3.1 Failure to ensure that Union fishing vessels flying the Member State's flag and operating outside Union waters are in a position to provide detailed and accurate documentation of all fishing and processing activities.	Art 31(8) of the CFP Regulation 1380/2013
3.2 Failure to ensure that Union fishing vessels outside Union waters are authorised in line with the respective provisions in the SMEFF regulation	Art. 5 (1), 6 (2), 6 (4), 7 (3) to (7), Art. 11(1), 18(1), 25(1) of Sustainable Management of External Fishing Fleet (SMEFF) Regulation (EU) 2017/2403
Category 4: Failure to ensure that the fleet is in balance with the natural resources in accordance with Art. 22 of the CFP Regulation 1380/2013	
4.1 Failure to ensure that any exit from the fleet supported by public aid is preceded by the withdrawal of the respective fishing licence and authorisations and that the withdrawn capacity is not replaced	Article 22(5) and (6) of CFP Regulation 1380/2013
4.2. Failure to ensure that the fishing capacity does not exceed at any time the ceilings set out in Annex II to the CFP Regulation (EU) No 1380/2013	Article 22(7) of CFP Regulation 1380/2013
4.3 Failure to implement the entry/exit scheme in such a way that the entry into the fleet of new capacity without public aid is compensated for by the prior withdrawal of capacity without public aid of at least the same amount	Article 23 (1) of CFP Regulation 1380/2013
4.4 Failure to submit to the Commission the information to be recorded in the Union fleet register as set out in the CFP Regulation (EU) No 1380/2013 and Commission Implementing Regulation 2017/218	Article 24 (2) of CFP Regulation 1380/2013
4.5 Failure to draw up separate assessments for fleets in outermost regions and for vessels operating exclusively outside Union waters when assessing the balance between the fishing capacity of the fleet and fishing opportunities.	Article 22(3) of CFP Regulation 1380/2013
4.6 Failure to control and monitor fishing capacity and engine power of fishing vessels.	Art. 38, 39(2), 40(1), 41 of Control Regulation (EC) No 1224/2009

Category 5: Failure to contribute to the collection of scientific data as required by Art 2 (4) of the CFP Regulation 1380/2013	
5.1 Failure to submit annually a report on the implementation of national work plans for data collection in the fisheries and aquaculture sectors.	Art. 11 (1) of Data Collection Framework 2017/1004
5.2 Failure to ensure national coordination of the collection and management of scientific data for fisheries management, including socio-economic data.	Art. 7 of Data Collection Framework 2017/1004
5.3 Failure to coordinate data collection activities with other Member States in the same region.	Art. 6 (4) and 9(1) of Data Collection Framework 2017/1004
5.4 Failure to make available data to end users: (i) ensuring completeness, (ii) respecting quality standards and/or validation.	Art. 14, 16, 17, 19, 20 of Data Collection Framework 2017/1004 (Not providing data to end-users in a timely manner is already included in Art 25(7) of Regulation (EU) No 1380/2013).
Category 6: Failure to operate an effective control system in order to ensure compliance with the CFP rules as required by Art. 36(3) of the CFP Regulation 1380/2013	
6.1 Failure to respect the general principles of control and enforcement	Art. 5 (1) to (4) of Control Regulation (EC) No 1224/2009
6.2 Failure to ensure accurate weighing of fishery products and/or control the marketing in order to ensure effective traceability of fisheries and aquaculture product.	Art. 56(1), 57(1), 58, 59(1), and 60(1) and (2) of Control Regulation (EC) No 1224/2009
6.3 Failure to establish and implement National Control Action Programmes and, when relevant, to carry out specific control and inspection programmes established by the Commission	Art. 46 and Art 95(4) of Control Regulation (EC) No 1224/2009
6.4 Failure to implement the measures decided by the Commission to ensure compliance by Member States with CFP objectives, notably action plans and any other measures such as closure of fisheries, deduction and transfers of quotas and fishing effort and emergency measures.	Art. 36, 102, 104, 105, 106 and 107 of Control Regulation (EC) No 1224/2009
6.5 Failure to meet the requirements as regards analysis, validation, access, exchange of data and information	Art. 109, 110, 111, 114, 116 of Control Regulation (EC) No 1224/2009.
Category 7: Failure to operate an effective enforcement system as required by Art. 36(3) of the CFP Regulation 1380/2013	
7.1 Failure to carry-out effective surveillance and inspections, and to ensure systematic and adequate enforcement action in respect of any breaches of the rules of the CFP.	Art. 71, 72(1) and (2), 74, 78(1) , 80, 83(1) and (2), 84(2), 85, 87, 89(1) and (4), 90(2) to (4), and 91 of Control Regulation 1224/2009; Art. 44 Of IUU Regulation 1005/2008
7.2 Failure to cooperate with the Commission in order to facilitate the accomplishment of the Commission officials tasks during their missions of verification autonomous inspections and audits.	Art. 96(2) of Control Regulation (EC) No 1224/2009
7.3. Failure to establish the criteria to determine the serious character of the infringement of the CFP rules.	Article 3(2) and 42 of IUU Regulation 1005/2008 and 90(1) of the Control Regulation (EC) 1224/2009

7.4. Failure to ensure that effective sanctions are applied systematically for breaches of CFP rules and that the level of those sanctions is of adequate severity and proportionate to the seriousness of such infringements, so as to ensure deterrence and, as a minimum, effectively deprive perpetrators of the economic benefit derived from their infringement	Art. 89 (1) and (2) and Art. 90 of the Control Regulation (EC) 1224/2009 and Art. 44, 45 46 and 47 of IUU Regulation 1005/2008
7.5. Failure to apply the point system for serious infringements for holders of fishing licences as well as for masters as set out in Regulation (EC) No 1224/2009 establishing a Union control system;	Art. 92(1), (2) and (6) of Control Regulation (EC) No 1224/2009
7.6. Failure to manage the national register of infringements in accordance with applicable rules	Art. 93(1) of Control Regulation (EC) No 1224/2009
Category 8: Failure to act against IUU fishing. as required by Art. 36(3) of the CFP Regulation 1380/2013	
8.1. Failure to take measures in accordance with applicable rules in order to ensure that (IUU) fishing is prevented, deterred and eliminated in accordance with Regulation (EC) No 1005/2008	Art. 1 (2) of IUU Regulation (EC) No 1005/2008
8.2. Failure to carry out verifications related to the catch certification scheme in accordance with Article 17 of Regulation (EC) No 1005/2008, in particular in cases of risk in accordance with Article 17(3) as well as in the specific cases listed in Article 17(4) in conjunction with Title II, Chapter II of Regulation (EC) No 1010/2009 .	Art 17 (3), (4) of IUU Regulation (EC) No 1005/2008 in conjunction with Art. 10 (2), 16(1), 17(1), 20(3), 21(3),(5) and (7), 23(1), 25, 26(2), 27(4), 29(1), 30(1) of Regulation (EC) No 1010/2009
Category 9: Failure to respect rules on a common organisation of the markets in fisheries and aquaculture products in order to contribute to the achievement of the objectives of the CFP as required by Art. 35(1) of the CFP Regulation 1380/2013	
9.1. Failure to ensure that all criteria laid down in Regulation (EU) No 1379/2013 for the recognition of producers organisations and interbranch organisations are met when granting such recognition	Art. 14(1) and 16(1) of Regulation (EU) No 1379/2013 on the Common Market Organisation (CMO).
9.2. Failure to carry-out checks in order to verify whether recognised collective organisations still meet all criteria over time	Art. 18(1) and (2) of Regulation (EU) No 1379/2013 on the CMO

Annex II: Cases of non-compliance in the 2014-2020 programming period

In the 2014-2020 programming period, the Delegated Act 2015/852 identifying the cases of non-compliance includes 6 different categories, which are themselves split in a certain number of cases.

Here is this list of cases:

Category 1: Failure to contribute to the objectives of the Common Fisheries Policy as set out in Article 2(2) of Regulation (EU) No 1380/2013 that are essential to the conservation of marine biological resources

1.1. Failure to ensure that fishing opportunities allocated to the Member State pursuant to Articles 16-17 of Regulation (EU) No 1380/2013 are respected;

1.2. Failure to meet requirements set out in different types of conservation measures listed in Article 7 of Regulation (EU) No 1380/2013.

Category 2: Failure to meet international obligations on conservation

2.1. Failure to meet obligations deriving from Article 28 of Regulation (EU) No 1380/2013.

Category 3: Failure to ensure that the fleet is in balance with the natural resources

3.1. Failure to submit the report on the balance between the fishing capacity of the fleet and the fishing opportunities that complies with all the requirements of Article 22(2) of Regulation (EU) No 1380/2013;

3.2. Failure to implement the action plan pursuant to Article 22(4) of Regulation (EU) No 1380/2013, if such a plan is included into the report submitted annually;

3.3. Failure to ensure that in case of fishing capacity withdrawn by public finances, respective fishing licences and authorisations are withdrawn in advance and the capacity is not replaced as referred to in Article 22(5) and (6) of Regulation (EU) No 1380/2013;

3.4. Failure to ensure that the fishing capacity does not exceed at any time the ceilings set out in Article 22(7) and Annex II to Regulation (EU) No 1380/2013;

3.5. Failure to implement the entry/exit scheme pursuant to the requirements of Article 23 of Regulation (EU) No 1380/2013;

3.6. Failure to manage the fishing fleet register in compliance with Article 24 of Regulation (EU) No 1380/2013 and Commission Regulation (EC) No 26/2004⁸.

Category 4: Failure to implement the Community framework for the collection, management and use of data in line with Article 25 of Regulation (EU) No 1380/2013 as further specified in Council Regulation (EC) No 199/2008⁹ that result in a lack of information on natural resources

4.1. Failure to collect and manage biological, environmental, technical and socioeconomic data necessary for fisheries management as set out in Articles 4, 13 and 17 of Regulation (EC) No 199/2008;

4.2. Failure to submit annually a report on execution of national data collection programmes and to make this report publicly available as set out in Article 7 of Regulation (EC) No 199/2008;

4.3. Failure to ensure a national coordination of the collection and management of scientific data for fisheries management as set out in Article 4 of Regulation (EC) No 199/2008;

⁸ Commission Regulation (EC) No 26/2004 of 30 December 2003 on the Community fishing fleet register (OJ L 5, 9.1.2004, p. 25).

⁹ Council Regulation (EC) No 199/2008 of 25 February 2008 concerning the establishment of a Community framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the Common Fisheries Policy (OJ L 60, 5.3.2008, p. 1).

4.4. Failure to coordinate data collection activities with other Member States in the same region as set out in Article 5 of Regulation (EC) No 199/2008;

4.5. Failure to provide data in a timely manner to end-users in accordance with Articles 18 to 20 of Regulation (EC) No 199/2008.

Category 5: Failure to operate an effective control and enforcement system

5.1. Failure to respect the general principles of control and enforcement in accordance with Title II of Council Regulation (EC) No 1224/2009¹⁰;

5.2. Failure to ensure that the general conditions for access to waters and resources in accordance with Title III of Regulation (EC) No 1224/2009 are respected;

5.3. Failure to control the marketing in order to ensure effective traceability of fisheries and aquaculture products, in accordance with Title V of Regulation (EC) No 1224/2009;

5.4. Failure to carry-out effective surveillance and inspections, and to ensure systematic and adequate enforcement action in respect of any breaches of the rules of the CFP, in accordance with Titles VI, VII and VIII of Regulation (EC) No 1224/2009;

5.5. Failure to establish and implement National Control Action Programmes according to Article 46 of Regulation (EC) No 1224/2009 and, when relevant, to carry out specific control and inspection programmes established by the Commission in accordance with Title IX of that Regulation;

5.6. Failure to cooperate with the Commission in order to facilitate the accomplishment of the Commission officials tasks during their missions of verification autonomous inspections and audits in accordance with Title X of Regulation (EC) No 1224/2009;

5.7. Failure to implement the measures decided by the Commission to ensure compliance by Member States with CFP objectives, such as action plans and any other measures in accordance with Title XI of Regulation (EC) No 1224/2009;

5.8. Failure to meet the requirements as regards analysis, validation, access and exchange of data and information, in accordance with Title XII of Regulation (EC) No 1224/2009;

5.9. Failure to control the implementation of an effective catch certificate scheme also provided for in Chapter III of Council Regulation (EC) No 1005/2008¹¹

5.10. Failure to act on alleged or reported illegal, unreported and unregulated (IUU) fishing activities pursuant to Article 26(3) and Articles 39 and 40 of Regulation (EC) No 1005/2008.

Category 6: Failure to establish and operate a functioning system of effective, proportionate and dissuasive penalties

6.1. In the event of an infringement, failure to notify the flag Member State, the Member State of which the offender holds the citizenship and any other Member State interested in the follow-up of the measures taken to ensure compliance in accordance with Article 89(4) of Regulation (EC) No 1224/2009;

6.2. Failure to take immediate measures in accordance with Article 91 of Regulation (EC) No 1224/2009 to prevent masters of fishing vessels or other legal or natural persons who had been caught in committing serious infringement, from continuing to do so;

¹⁰ Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p. 1).

¹¹ (4) Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999 (OJ L 286, 29.10.2008, p. 1

- 6.3. Failure to establish the criteria to determine the serious character of the infringement of the CFP rules under Article 42 of Regulation (EC) No 1005/2008;
- 6.4. Failure to ensure that effective sanctions are applied systematically for breaches of CFP rules and that the level of those sanctions is of adequate in severity and proportionate to the seriousness of such infringements, so as to ensure deterrence and, as a minimum, effectively deprive perpetrators of the economic benefit derived from their infringement in accordance with Title VIII of Regulation (EC) No 1224/2009;
- 6.5. Failure to apply the point system for serious infringements for holders of fishing licences as well as for masters in accordance with Article 92 of Regulation (EC) No 1224/2009;
- 6.6. Failure to establish and adequately manage the national register of infringements in accordance with Article 93 of Regulation (EC) No 1224/2009.