

INFORMATION FICHE NO 8

**IMPLEMENTATION OF SUPPORT FOR PERMANENT CESSATION
THROUGH FINANCING NOT LINKED TO COSTS
IN THE EMFF 2021 – 2027**

02/04/2019

RELEVANT PROVISIONS IN THE DRAFT LEGISLATION

Regulation	Provisions
EMFF Proposal	Article 17 (management of fisheries and fishing fleets)
CPR Proposal	Article 46 (forms of Union contribution to programmes) Article 89 (financing not linked to costs) Annex V, appendix 2 (template for the use of financing not linked to costs in the programmes)
Financial Regulation (2018/1046)	Article 125 (forms of Union contribution)

This document is based on the text of the adopted EMFF proposal. 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.

OBJECTIVE OF THIS FICHE

This fiche outlines the proposed implementation of support for permanent cessation of fishing activities through financing not linked to costs and the corresponding elements to be included in the EMFF programmes for the 2021-2027 period.

LEGAL BASES

Article 17(3) of the Commission's EMFF proposal:

3. The support for the permanent cessation of fishing activities referred to in paragraph 2 shall be implemented by financing not linked to costs, in accordance with Articles 46(a) and 89 of Regulation (EU) No [Regulation laying down Common Provisions], and shall be based on:

- (a) the fulfilment of conditions, in accordance with Article 46(a)(i) of Regulation (EU) No [Regulation laying down Common Provisions]; and*
- (b) the achievement of results, in accordance with Article 46(a)(ii) of Regulation (EU) No [Regulation laying down Common Provisions].*

The Commission shall be empowered to adopt delegated acts, in accordance with Article 52, laying down the conditions referred to in point (a), which shall relate to the implementation of conservation measures, as referred to in Article 7 of Regulation (EU) No 1380/2013.

Article 46 of the Commission's CPR proposal:

Forms of Union contribution to programmes

The Union contribution may take any of the following forms:

- (a) financing not linked to costs of the relevant operations in accordance with Article 89 and based on either of the following:
 - (i) the fulfilment of conditions;*
 - (ii) the achievement of results;**
- (b) reimbursement of eligible costs actually incurred by beneficiaries or the private partner of PPP operations and paid in implementing operations;*
- (c) unit costs in accordance with Article 88, which cover all or certain specific categories of eligible costs, clearly identified in advance by reference to an amount per unit;*
- (d) lump sums in accordance with Article 88, which cover in global terms all or certain specific categories of eligible costs, clearly identified in advance;*
- (e) flat-rate financing in accordance with Article 88, which covers specific categories of eligible costs, clearly identified in advance, by applying a percentage;*
- (f) a combination of the forms referred to in points (a) to (e).*

Article 89 of the Commission's CPR proposal:

Financing not linked to costs

1. *In order to make use of a Union contribution to all or parts of a priority of programmes based on financing not linked to costs, the Member State shall submit a proposal to the Commission in accordance with the templates set out in Annexes V and VI, as part of the programme or of a request for its amendment. The proposal shall contain the following information:*
 - (a) *identification of the priority concerned and the overall amount covered by the financing not linked to costs; a description of the part of the programme and the type of operations covered by the financing not linked to costs;*
 - (b) *a description of the conditions to be fulfilled or of the results to be achieved and a timeline;*
 - (c) *intermediate deliverables triggering reimbursement by the Commission;*
 - (d) *measurement units;*
 - (e) *the schedule for reimbursement by the Commission and related amounts linked to the progress in the fulfilment of conditions or achievement of results;*
 - (f) *the arrangements for verification of the intermediate deliverables and of the fulfilment of conditions or achievement of results;*
 - (g) *the methods for adjustment of the amounts, where applicable;*
 - (h) *the arrangements to ensure the audit trail in accordance with Annex XI demonstrating the fulfilment of conditions or achievement of results.*
2. *The Commission decision approving the programme or the request for its amendment shall set out all the elements listed in paragraph 1.*
3. *Member States shall use one of the forms of grants as referred to in Article 48(1) to support operations for which expenditure is reimbursed by the Commission on the basis of this Article.*

Commission or Member States audits shall exclusively aim at verifying that the conditions for reimbursement by the Commission have been fulfilled or the results have been achieved.
4. *The Commission is empowered to adopt a delegated act in accordance with Article 107 to supplement this Article by establishing amounts for financing not linked to costs by type of operation, the methods for adjustment of the amounts and the conditions to be fulfilled or the results to be achieved.*

Article 125 of the Financial Regulation:

Forms of Union contribution

1. *Union contributions under direct, shared and indirect management shall help achieve a Union policy objective and the results specified and may take any of the following forms:*

- (a) *financing not linked to the costs of the relevant operations based on:*
- (i) *the fulfilment of conditions set out in sector-specific rules or Commission decisions; or*
 - (ii) *the achievement of results measured by reference to previously set milestones or through performance indicators;*
- (b) *reimbursement of eligible costs actually incurred;*
- (c) *unit costs, which cover all or certain specific categories of eligible costs which are clearly identified in advance by reference to an amount per unit;*
- (d) *lump sums, which cover in global terms all or certain specific categories of eligible costs which are clearly identified in advance;*
- (e) *flat-rate financing, which covers specific categories of eligible costs, which are clearly identified in advance, by applying a percentage;*
- (f) *a combination of the forms referred to in points (a) to (e).*

Union contributions under point (a) of the first subparagraph of this paragraph shall, in direct and indirect management, be established in accordance with Article 181, sector-specific rules or a Commission decision and, in shared management, in accordance with sector-specific rules. Union contributions under points (c), (d) and (e) of the first subparagraph of this paragraph shall, in direct and indirect management, be established in accordance with Article 181 or sector-specific rules and, in shared management, in accordance with sector-specific rules.

2. *When determining the appropriate form of a contribution, the potential recipients' interests and accounting methods shall be taken into account to the greatest extent possible.*
3. *The authorising officer responsible shall report on financing not linked to costs pursuant to points (a) and (f) of the first subparagraph of paragraph 1 of this Article in the annual activity report referred to in Article 74(9).*

BACKGROUND

Pursuant to Article 22 of the CFP Regulation, “*Member States shall put in place measures to adjust the fishing capacity of their fleet to their fishing opportunities over time, taking into account trends and based on best scientific advice, with the objective of achieving a stable and enduring balance between them*”. In this context, Member States prepare an action plan for the fleet segments with identified structural overcapacity, which “*shall set out the adjustment targets and tools to achieve a balance and a clear time-frame for its implementation*”. According to Article 17(2)(a) of the EMFF proposal, support for the permanent cessation of fishing activities is a tool of the above-referred action plans.

Permanent cessation of fishing activities has long been supported by EU public money. It was part of the FIFG (2000-2006), the EFF (2007-2013) and the current EMFF, until 31 December 2017. However, a Court of Auditors' report of 2011 and a study done by DG MARE in 2013¹ concluded that such support was very often poorly targeted and did not fully tackle

¹ Retrospective evaluation of scrapping and temporary cessation measures in the EFF

overcapacity. The 2011 European Court of Auditors Report found that, as a result, the scrapping of fishing vessels had little impact on the targeted fish stocks. Under the current EMFF, more efforts have been made to target those segments in the fleet with identified structural overcapacity to ensure a better balance between fishing capacity and fishing opportunities.

Nevertheless, structural fleet adaptation continues to remain necessary in certain fleet segments and across different seabasins. As outlined in the 2018 fleet capacity report², out of the 227 assessed fleet segments 93 are out of balance in the North Sea/Atlantic and 65 in the Mediterranean and Black Sea, representing 25% of all the active fleet segments. In this respect, public support through the EMFF can help with the overall goal of maintaining or restoring healthy stock levels by reducing overall capacity.

Therefore, the Commission's proposal for the post 2020 EMFF reintroduces support for permanent cessation on the basis of two principles: simplification and results-based. For this purpose, the proposal makes it mandatory to implement support for permanent cessation through financing not linked to costs, in accordance with the rules proposed in the Common Provisions Regulation.

APPROACH

According to Article 46 of the CPR proposal, financing not linked to costs is one of the forms of Union contribution to programmes. Article 17(3) of the EMFF proposal makes it mandatory for the area of support on permanent cessation of fishing activities. It is optional for any other area of support.

Article 89 of the CPR proposal and the corresponding template in Annex V lay down the rules for the implementation of financing not linked to costs. The basis for this mechanism is Article 125 of the Financial Regulation. Concretely, payments from the Commission to Member States are conditional upon the achievement of results or the fulfilment of conditions³. This means that the Commission would proceed with the payment only if the result is achieved or the condition fulfilled. In the case of Article 17 of the EMFF proposal, both results and conditions shall be used. These results and conditions shall be set *ex ante* in the programme (appendix 2) together with a corresponding amount to be paid, a timeline, the deliverables triggering reimbursement and the measurement units. Since these elements are included in the programme, they are subject to a proposal by the Member State and the approval by the Commission.

In addition, the EMFF proposal includes an empowerment for a delegated act to make sure that the conditions are linked to conservation measures as referred to in Article 7 of the CFP Regulation. This includes measures to adapt the fishing capacity of fishing vessels to available fishing opportunities. Article 89 of the CPR proposal also includes an empowerment for a delegated act to establish “*amounts for financing not linked to costs by type of operation, the methods for adjustment of the amounts and the conditions to be fulfilled or the results to be achieved*”.

² Communication on the State of Play of the Common Fisheries Policy and Consultation on the Fishing Opportunities for 2019, COM/2018/452 final

³ According to Article 125 of the Financial Regulation, the conditions are set out in sector-specific rules or Commission decisions, and the results are measured by reference to previously set milestones or through performance indicators.

Financing not linked to costs applies at the level of payments from the Commission to Member States, irrespective of the reimbursement in any form of grant from Member States to beneficiaries, which are regulated under Article 48 of the CPR proposal. Therefore, it would not impact the premiums paid to beneficiaries for the permanent cessation.

Financing not linked to costs has three main advantages:

- 1) It contributes to targeting public support to the achievement of clear policy objectives,
- 2) It is a huge simplification for Member States as payments are not linked to real costs and invoices,
- 3) It limits the scope of audits to the verification of the fulfilment of the conditions or the achievement of the results.

EXAMPLE

In the context of permanent cessation of fishing activities, a concrete example is the alignment of results to be achieved to the targets of the action plans for imbalanced fleet segments (Article 22 of the CFP). A possible output in this respect is a quantified reduction of capacity (measured in GT and kW) in a given segment which leads to a reduction in capacity. As explained above, the overall aim would be that over time the targeted reduction of capacity in a given fleet segment would help to maintain or restore levels of healthy stocks, reducing the fishing mortality to help produce MSY.

An example is detailed in the template in Annex to this note. Thus, if a Member State wanted to include support for permanent cessation in its Programme, it would have to complete the template (in annex to this fiche), as part of its Programme (or in case the Programme is already adopted, an amendment to the OP).

Simplification would be achieved as follows. Member States would be able to use one of the forms of grants as referred to in Article 48(1), including simplified costs, to these types of operations. Furthermore, Commission or Member States audits would exclusively aim at verifying that the conditions for reimbursement by the Commission have been fulfilled or the results have been achieved.

The **results-based** approach would be achieved by the fact that reimbursement would effectively take place on the basis of a reduction of overall capacity for specific fleet segments which have been identified in the fleet report and/or accompanying action plan as requiring action. If results were only partly achieved, payment would be done on the basis of the proportion of the achievement. This would be explained in section 1.9 of the template which would lay out the methods for adjustment of the amounts, including partially achieved results.

ANNEX

***Example of implementation of permanent cessation through financing not linked to costs
in appendix 2 of the programme template (Annex V of the CPR proposal)***

A. Summary of the main elements

Priority	Fund	Specific objective (Jobs and growth goal) or area of support (EMFF)	Category of region	<i>The amount covered by the financing not linked to cost</i>	Type(s) of operation	Conditions to be fulfilled/results to be achieved	Corresponding indicator name(s)		Unit of measurement for the indicator
1	EMFF	Permanent cessation of fishing activities (Article 17.2)	Not applicable	EUR XX	Compensation for the permanent cessation of fishing activities through the decommissioning of fishing vessels	Reduction of fishing capacity calculated in gross tonnage and power	Code NA	Description Decrease of the fishing fleet's gross tonnage and power	Tonnes and kW
The overall amount covered				EUR XX					

B. Details by type of operation (to be completed for every type of operation)

Types of operation:

1.1. Description of the operation type	Compensation for the permanent cessation of fishing activities through the decommissioning of fishing vessels		
1.2 Priority / specific objective(s) (Jobs and growth goal) or area of support (EMFF) concerned	Priority 1 Area of support 17(2) – permanent cessation of fishing activities		
1.3 Conditions to be fulfilled or results to be achieved	Reduction of fishing capacity in fleet segments where there is no balance between the fishing capacity and the available opportunities (calculated in gross tonnage and kW)		
1.4 Deadline for fulfilment of conditions or results to be achieved	Annual milestones on 31 December		
1.5 Indicator definition for deliverables	Gross tonnage and power as defined in Commission Implementing Regulation (EU) 2017/218 on the Union fishing fleet register		
1.6 Unit of measurement for indicator for deliverables	Tonnes and kW		
1.7 Intermediate deliverables (if applicable) triggering reimbursement by the Commission with schedule for reimbursements	Intermediate deliverables	Date	Amounts
	Reduction of X tonnes and X kW from the EU fleet register in fleet segment Y	31 December 2023	EUR XX
	Reduction of X tonnes and X kW from the EU fleet register in fleet segment Y	31 December 2024	EUR XX
	Reduction of X tonnes and X kW from the EU fleet register in fleet segment Y	31 December 2025	EUR XX
	Reduction of X tonnes and X kW from the EU fleet register in fleet segment Y	31 December 2026	EUR XX

1.8 Total amount (including EU and national funding)	EUR XX
1.9 Adjustment(s) method	<i>Not applicable</i>
<p>1.10 Verification of the achievement of the result or condition (and where relevant, the intermediate deliverables)</p> <ul style="list-style-type: none"> - describe what document(s) will be used to verify the achievement of the result or condition - describe what will be checked during management verifications (including on-the-spot), and by whom. - describe what are the arrangements to collect and store the data/documents 	<p>Documents to be used to verify the achievement of the result:</p> <ul style="list-style-type: none"> - Annual report submitted by the Member State pursuant to Article 22.2 of Regulation (EU) N°1380/2013 (report on capacity, submitted by 31 May every year) - EU fleet register established pursuant to Commission Implementing Regulation (EU) 2017/218 - Annual Performance Report pursuant to Article 36.6 of the Commission proposal for the post 2020 Common Provision <p>Arrangements to collect and store the data/documents: in accordance with Commission Implementing Regulation (EU) 2017/218</p>
<p>1.11 Arrangements to ensure the audit trail</p> <p>Please list the body(ies) responsible for these arrangements.</p>	<p>Managing authority / intermediate body will be responsible for keeping:</p> <ul style="list-style-type: none"> - documents setting out the conditions of support signed by the beneficiary and the managing authority/intermediate body and the form of grant provided to beneficiaries; - documents evidencing the ex-ante agreement of the Commission on the conditions to be fulfilled or results to be achieved and corresponding amounts (programme approval or amendment); - documents evidencing the fulfilment of conditions or achievement of results at each step as well as before the final expenditure declared to the Commission; - documentation related to the selection and approval of operations covered by the financing not linked to costs;