



Inadmissibility of applications for EMFAF support (delegated act)

EMFF Expert Group – 21 April 2021

DG MARE D.3

Introduction

Article 42 Regulation (EU) No 1380/2013:

“Union financial assistance to operators shall be conditional upon compliance with the CFP rules by operators”.

“Member States shall ensure that Union financial assistance is granted only if no penalties for serious infringements have been imposed on the operator concerned within a period of one year prior to the date of application for Union financial assistance”.

- EMFAF Impact Assessment: the achievement of CFP objectives should continue to be a priority for the future.

Legal basis

Article 11 of the EMFAF Regulation lays down the rules on the admissibility of operators' applications for financial support, and empowers the Commission to adopt a delegated act defining:

1. the identification of the threshold triggering the inadmissibility of operators who committed **serious infringements, environmental offences or fraud**,
2. the length of the period of time of inadmissibility, and
3. the relevant starting or ending dates of that period and the conditions for a reduced time of inadmissibility.

Current rules in relation to serious infringements

(Delegated Regulation (EU) N° 2015/288)

General Rule

One serious infringement (SI) triggers the inadmissibility.

The inadmissibility period lasts **12 months**.

Each additional serious infringement committed during the inadmissibility period results in **12 additional months** of inadmissibility.

Derogation

Applies to **3 categories of SI subject to the point system**:

- Misreporting of catches
- Use of prohibited or non-compliant gear
- Non-fulfilment of the landing obligation

Inadmissibility is triggered when **9 points** are reached.

The inadmissibility period lasts **12 months**.

The inadmissibility period is extended by a month for each additional point accumulated during the inadmissibility period for these 3 categories of SI.

Objectives of the new delegated act

- Full alignment with the point system
- Better level playing field
- Coherence with the current system under the EMFF
- Simpler implementation
- Proportionality
- More flexibility regarding the reduction of the inadmissibility period

New rules in relation to serious infringements (1)

For SI subject to the point system

Applies to **all SI subject to the point system**.

Inadmissibility is triggered when **5 points** are reached.

The inadmissibility period lasts **12 months**.

Each additional SI committed during the inadmissibility period results in **12 additional months** of inadmissibility.

For SI not subject to the point system

One serious infringement triggers the inadmissibility.

The inadmissibility period lasts **12 months**.

Each additional SI committed during the inadmissibility period results in **12 additional months** of inadmissibility.

New rules in relation to serious infringements (2)

- **Reduction of the inadmissibility period in relation to points: rule widened**

Inadmissibility period reduced by 2 months when 2 points are deleted from the fishing licence pursuant to Article 133(3) of Implementing Regulation 404/2011 for any serious infringement.

- **Transfer of ownership: rule unchanged**

A transfer of ownership cannot affect the EMFAF inadmissibility period for an operator. However, points transferred to the new owner will be taken into account as soon as he/she commits any new serious infringement.

Other provisions (IUU, environmental offences, fraud)

- **IUU: rule unchanged**

Specific rules apply to operators involved in the operation, management or ownership of fishing vessels included in the **Union IUU vessel list** and those whose vessels are flagged to **countries identified as non-cooperating third countries** in accordance with the IUU Regulation.

- **Environmental offences: rule unchanged**

The inadmissibility period of aquaculture producers would be of 12 months if the offence is committed with serious negligence; and of 24 months if the offence is committed intentionally.

- **Fraud: rule unchanged**

The inadmissibility period will last from the date of the first official decision establishing the fraud until the end of the eligibility period of the EMFAF (31 December 2029).

Requirements on beneficiaries and Member States

As in the EMFF:

- an operator applying for EMFAF support will have to provide a **signed statement that he/she complies with admissibility rules**. Member States shall verify the veracity of the statement, in particular via the national register of infringements.
- any EMFAF beneficiary will have to comply with admissibility rules for the whole period of implementation as well as **5 years after the last payment**. Should a case of inadmissibility occur during this period, the EMFAF support shall be recovered by the Member State in accordance with CPR rules. If the Member State does not proceed with this correction, it is up to the Commission to do it.

Questions

1. Given your experience on compliance with CFP rules by operators in the EMFF, do you have any good practice to share on this topic?
2. What is your experience regarding the use of points as a basis for the assessment of the eligibility of operators? Was it easy to implement? Which difficulties did you encounter? Could you provide us with some concrete examples?
3. Are there some aspects of the future delegated act presented in the fiche that you would like to modify? If so why?
4. Do you have any concrete proposals to improve or facilitate the implementation of the system proposed?

QUESTIONS AND ANSWERS

Thank you



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