



Brussels, **XXX**
[...](2014) **XXX** draft

COMMISSION DELEGATED REGULATION (EU) No .../..

of **XXX**

on defining cases of non-compliance with the rules of the Common Fisheries Policy that may lead to an interruption of a payment deadline or suspension of payments under the European Maritime and Fisheries Fund

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

The achievement of the objectives of the reformed Common Fisheries Policy (CFP) is only possible if Member States as well as operators comply with all the rules laid down in the relevant legislation. Therefore, access to Union financial assistance is conditional upon compliance of both Member States and operators with CFP rules. Pursuant to Articles 41(2) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy non-compliance by Member States with the CFP rules may result in the interruption or suspension of payments or in the application of a financial correction to Union financial assistance under the CFP.

Any such measure should be proportionate to the nature, gravity, duration and repetition of the non-compliance.

However, Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the establishment of the EMFF does not specify these cases of non-compliance but provides an empowerment to the Commission to do so within the framework of a delegated act.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

Consultations have been carried out in line with paragraph 4 of the Common Understanding on delegated acts between the European Parliament, the Council and the European Commission.

All parts of the act have been discussed at expert group meetings involving experts from all Member States. The European Parliament and the Council were duly notified of the dates of the meetings, agendas and relevant documents to enable requests to attend the meetings. The proposed content of the delegated act was discussed in the expert group meetings on 22 May and 16 September 2013, as well as on 1 December 2014.

The meetings allowed for a full presentation of the Commission's draft provisions and a thorough exchange of views on all aspects of the draft. The procedure consisted of clarifying the Commission's approach, hearing experts' views and further refining the draft text accordingly. This allowed rules to be clarified and specified in response to experts' comments. In all cases, the experts were also able to submit written comments following the meetings. The questions and comments informed the drafting of the rules concerned.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Article 102 of Regulation (EU) No 508/2014 gives the empowerment to the Commission to define cases of non-compliance by Member States with the rules of the CFP that may trigger interruption of the payment deadline, suspension of payments and financial corrections by the Commission. This delegated act defines such cases of non-compliance with references to the provisions of the CFP rules.

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 508/2014 of the European Parliament and of the Council on the European Maritime and Fisheries Fund¹, and in particular Article 102 thereof,

Whereas:

- (1) The achievement of the objectives of the Common Fisheries Policy (CFP) should not be undermined by Member States violating CFP rules. Pursuant to Article 41(1) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council², financial assistance from the European Maritime and Fisheries Fund (EMFF) is made conditional upon compliance with CFP rules by Member States.
- (2) In order to safeguard the financial interest of the Union and its taxpayers, where a Member State has failed to comply with its obligations under the CFP, or where the Commission has evidence that suggests such a lack of compliance, the Commission may, as a precautionary measure, interrupt payment deadlines pursuant to Article 100 of Regulation (EU) No 508/2014.
- (3) In addition to the interruption of the payment deadline, and in order to avoid the evident risk of paying out ineligible expenditure, pursuant to Article 101 of Regulation (EU) No 508/2014 the Commission is allowed to suspend payments in cases of serious non-compliance with the CFP rules.
- (4) Financial consequences imposed on Member States in case they do not comply with the rules of the CFP, should be proportionate to the nature, gravity, duration and repetition of the non-compliance.
- (5) Articles 83(1) and 142(1) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council³ sets out the conditions under which interruption of a

¹ 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 (OJ L 149, 20.5.2014, p. 1.)

² Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28/12/2013, p. 22).

³ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and

payment deadline or suspension payments may be imposed respectively. Both of these articles foresee that the fund-specific rules for the EMFF may lay down specific bases for interruption and suspension linked to non-compliance with rules applicable under the CFP.

- (6) In order to provide legal certainty for Member States implementing EMFF programmes, it is necessary to define the cases of non-compliance with CFP rules essential to the conservation of marine biological resources that may trigger interruption of the payment deadline or suspension of payments. Those cases will serve the purposes of the EMFF regulation and implementing Article 41 of Regulation (EU) No 1380/2013 without prejudice to any other sanctions imposed by CFP rules.
- (7)
- (8) In order to allow for the prompt application of the measures provided for in this Regulation, and given the importance of ensuring that there is a harmonized and equal treatment of operators in all Member States from the start of the programming period, the provisions in this Regulation should apply from the first day of the eligibility period of the EMFF, and this Regulation shall enter into force on the day following that of its publication in the Official Journal of the European Union,

HAS ADOPTED THIS REGULATION:

Article 1

- (1) Member States that do not comply with the provisions of the Common Fisheries Policy that are essential to the conservation of marine biological resources may be subject to measures by the Commission pursuant to Articles 100 and 101 of the Regulation (EU) No 508/2014 as well as Articles 83 and 142 of Regulation (EU) No 1303/2013.
- (2) The cases of non-compliance with CFP rules that may trigger interruption of the payment deadline or suspension of payments are set out in Annex 1 to this Regulation.
- (3) In deciding on the interruption of the payment deadline or the suspension of payments, the Commission will ensure that such measures are proportionate to the nature, gravity, duration and repetition of the non-compliance.

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President
[\[...\]](#)