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COUNCIL DECISION

of 29 April 2004

on a Community financial contribution towards Member States fisheries control programmes

(2004/465/EC)

(OJ L 195, 2.6.2004, p. 36)

Amended by:

	Official Journal		
	No	page	date
► <u>M1</u> Council Decision 2006/2/EC of 21 December 2005	L 2	4	5.1.2006

**B****COUNCIL DECISION****of 29 April 2004****on a Community financial contribution towards Member States fisheries control programmes**

(2004/465/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

- (1) The common fisheries policy (CFP) sets out general rules on the conservation, management and responsible exploitation, and processing and marketing of living aquatic resources.
- (2) Specific objectives and rules are set out in particular in Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy ⁽²⁾.
- (3) Responsibility for ensuring that activities carried out within the scope of the CFP comply with those rules lies primarily with Member States.
- (4) Member States should have the requisite human and financial resources to discharge their responsibility for controlling fishing activities and enforcing the CFP rules.
- (5) Regulation (EC) No 2371/2002 stressed the need to further improve control of fishing activities in order to fight by any means against illegal and undeclared fishing within and outside Community waters. It identified remote control technologies as a tool to better achieve the control objectives under CFP and extended the obligation for remote monitoring by means of vessel monitoring systems to vessels more than 15 metres overall.
- (6) With effect from the date of accession the CFP rules will apply to new Member States which should be able to comply with all the requirements laid down by Community law, in particular in the control field. Those new Member States should be given the means to enable them to carry out their obligations.
- (7) The Community has been granting financial assistance to Member States since 1990 to make controls more efficient and effective and in particular to introduce and extend remote-control technology and information technology networks, to improve staff skills and to equip competent authorities with patrol vessels and surveillance aircraft.
- (8) The current financial scheme pursuant to Council Decision 2001/431/EC of 28 May 2001 on a financial contribution by the Community to certain expenditure incurred by the Member States in implementing the control, inspection and surveillance systems applicable to the common fisheries policy ⁽³⁾ expired at the end of 2003. There is evidence, however, that the resources of Member States are still inadequate.
- (9) It is of paramount importance to ensure that CFP rules are effectively enforced throughout the Community. It appears that some of those involved in the administrative or penal procedures are not always fully aware of the need to impose sanctions, which are dissuasive in order to avoid overexploitation of fishing stocks.

⁽¹⁾ Opinion delivered on 1 April 2004 (not yet published in the Official Journal).

⁽²⁾ OJ L 358, 31.12.2002, p. 59.

⁽³⁾ OJ L 154, 9.6.2001, p. 22.

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It is therefore appropriate to promote actions to focus attention on this issue.

- (10) Regulation (EC) No 2371/2002 underlined the need to enhance cooperation and coordination among Member States and with the Commission in order to strengthen control and discourage behaviour contrary to CFP rules. A structure designed to organise cooperation and coordination of control activities and of means dedicated to control purposes is expected to be operational in 2006.
- (11) It is therefore appropriate to continue to provide financial support to Member States until that time. It is necessary to ensure that Community funds are allocated efficiently with a view to reducing identified weaknesses. The funds should be used in accordance with the principle of sound financial management.
- (12) A financial reference amount, within the meaning of point 34 of the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure ⁽¹⁾, is included in this Decision for the entire duration of the period for which financial assistance is to be provided, without thereby affecting the powers of the budgetary authority as defined by the Treaty.
- (13) Member States should assess their programmes and the impact of their expenditure on control, inspection and surveillance, each year and over the whole period covered by this Decision and Decision 2001/431/EC.
- (14) Transitional measures should be established for claims for reimbursement of expenditure on the basis of Decision 2001/431/EC.
- (15) To ensure continuity with Decision 2001/431/EC, this Decision should apply from 1 January 2004,

HAS ADOPTED THIS DECISION:

Article 1

Subject matter

This Decision establishes the conditions under which the Community may grant a financial contribution to Member States for their fisheries control programmes.

Article 2

Definitions

For the purpose of this Decision the following definitions shall apply:

1. 'financial contribution' means a financial contribution paid by the Community to a Member State pursuant to this Decision;
2. 'fisheries control programme' means a programme drawn up by a Member State for monitoring, control and surveillance in fields covered by the common fisheries policy (CFP) as required by Regulation (EC) No 2371/2002;
3. 'new Member State' means a country which accedes to the Community on 1 May 2004.

⁽¹⁾ OJ C 172, 18.6.1999, p. 1. Agreement as amended by Decision 2003/429/EC of the European Parliament and of the Council (OJ L 147, 14.6.2003, p. 25).

▼B*Article 3***Annual fisheries control programmes**

1. Member States wishing to receive a financial contribution shall notify to the Commission an annual fisheries control programme specifying:

- (a) the objectives of the programme;
- (b) the human resources available;
- (c) the financial resources available;
- (d) the number of vessels and aircraft available;
- (e) a list of projects for which a financial contribution is sought;
- (f) the overall expenditure planned for achieving the projects;
- (g) a schedule for completion of each project listed in the programme;
- (h) a list of indicators that will be used to assess the efficacy of the programme.

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2. All Member States shall submit their annual fisheries control programme by 1 June 2004 for 2004 and by 31 January for 2005 and by 31 January 2006 for 2006.

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3. Detailed rules on the content of the fisheries control programme are set out in Annex I, part A.

*Article 4***Actions covered**

1. The projects for which a financial contribution is sought shall relate to one or more of the following actions:

- (a) purchase of, installation and technical assistance for computer technology and setting up of IT networks in order to allow efficient and secure data exchange in connection with monitoring, control and surveillance of fisheries activities;
- (b) purchase and fitting on board of fishing vessels of:
 - (i) electronic localisation devices enabling vessels to be monitored at a distance by fisheries monitoring centre through a vessel monitoring system (VMS);
 - (ii) electronic recording and reporting devices, allowing data transmission from the vessel;
- (c) pilot projects relating to and implementation of new technologies on the control of fisheries activities;
- (d) training and exchange programmes of civil servants responsible for monitoring, control and surveillance tasks in the fisheries area;
- (e) implementation of pilot inspection and observer schemes;
- (f) cost/benefit analysis and assessment of overall expenditure incurred by the competent authorities in carrying out monitoring, control and surveillance of fisheries activities;
- (g) initiatives including seminars and media tools aimed at enhancing awareness among fishermen and other players such as inspectors, public prosecutors and judges, as well as among the general public of the need to fight irresponsible and illegal fishing and on the implementation of CFP rules;
- (h) purchase and modernisation of vessels and aircraft used for inspection and surveillance of fisheries activities by the competent authorities of the Member States;

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- (i) administrative arrangements with the Joint Research Centre aimed at implementing new technologies on control;
- (j) studies on control-related areas carried out at the initiative of the Commission.

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- 2. Detailed rules on the actions covered are set out in Annex I, part B.

*Article 5***Community appropriations**

- 1. ►**M1** The financial reference amount for the implementation of the actions for which financial assistance is provided for the period 2004 to 2006 shall be EUR 105 million. ◀ The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspectives.
- 2. In the decision granting a Community financial contribution provided for in Article 6, the Commission shall give priority to the actions which it deems most appropriate in order to improve efficiency in monitoring, control and surveillance activity, taking also into account the performance of Member States in implementing programmes already approved.

*Article 6***Decision on financial contribution**

- 1. On the basis of the fisheries control programmes submitted by Member States, a decision shall be taken each year, in accordance with the procedure referred to in Article 30(2) of Regulation (EC) No 2371/2002. The decision shall fix:
 - (a) the global amount of the financial contribution to be granted to each Member State for the actions referred to in Article 4;
 - (b) the rate of the financial contribution;
 - (c) any condition applying to the financial contribution.
- 2. The rate of the financial contribution shall not exceed 50 % of eligible expenditure. However:
 - (a) for the actions referred to in Article 4(1)(b), the Commission may decide to grant a lump sum per vessel localisation device or for a device allowing electronic recording and reporting of data;
 - (b) for the actions referred to in Article 4(1)(c) and (g), the Commission may decide on a rate of contribution higher than 50 % of the eligible expenditure;
 - (c) for the actions referred to in Article 4(1)(h) the rate may not exceed 50 % of the eligible expenditure for the new Member States and may not exceed 25 % for the existing Member States;

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- (d) for the actions referred to in Article 4(1)(i) and (j), the rate may be 100 % of the eligible expenditure.

▼B*Article 7***Advances**

At the reasoned request of a Member State, the Commission may grant an advance of up to 50 % of the financial contribution for one year. The amount of the advance shall be deducted from the amount of the final payment of the financial contribution to that Member State.

If a binding commitment is not made by the competent authority within the period laid down in Article 8, any advance granted shall be repaid forthwith.

▼B*Article 8***Commitment of expenditure**

Each Member State shall enter into legal and budgetary commitments within 12 months of the end of the year in which it was notified of the decision referred to in Article 6.

*Article 9***Implementation of project**

1. Projects shall be started in accordance with the schedule laid down in the annual fisheries control programme and in any case within one year of the date of the commitment.
2. The projects shall be completed according to that schedule.

*Article 10***Non-implementation of projects**

When a Member State decides not to implement all or part of the projects for which a financial contribution has been granted, it shall immediately inform the Commission, stating the implications for its fisheries control programme.

*Article 11***Eligible expenditure**

1. In order to be eligible for reimbursement, expenditure must:
 - (a) be provided for in the fisheries control programme;
 - (b) relate to the actions referred to in Article 4;
 - (c) concern projects with a cost exceeding EUR 40 000 except in respect of an action referred to in Article 4(1)(d) and (g);
 - (d) arise from legal and budgetary commitments entered into by Member States in accordance with Article 8;
 - (e) concern projects implemented in accordance with Article 9.
2. Value added tax (VAT) shall not be eligible for reimbursement.
3. Expenditure on projects which benefit from other Community aid shall not be eligible.
4. For the new Member States, expenditure incurred from 1 January 2004 shall be eligible for reimbursement subject to compliance with conditions set out in this Decision and in the decision referred to in Article 6.

*Article 12***Claims for reimbursement**

1. Member States shall submit to the Commission their claims for reimbursement of expenditure within nine months of the date on which it was incurred. Claims shall be for an amount not less than EUR 20 000. Claims for an amount less than EUR 20 000 shall not be processed, unless duly justified.

Detailed rules on the content of the claims for reimbursement are set out in Annex I, part C.

2. Claims for projects which were not completed in accordance with the schedule referred to in Article 3(1)(g) may be accepted only where the delay is duly justified. Where those claims are not accepted, the Community appropriations may be decommitted. In any event, Community appropriations related to this Decision shall be decommitted at the latest by ►**M1** 31 December 2010 ◀.
3. When submitting claims for reimbursement, Member States shall verify and certify that the expenditure has been incurred in compliance

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with the conditions laid down in this Decision, in the decision provided for in Article 6 and with the rules on the award of public contracts. The claim shall include a statement concerning the accuracy and veracity of the transmitted accounts, in accordance with the form set out in Annex II.

4. If the Commission considers that the claim does not comply with the conditions referred to in paragraph 3, it shall request the Member State to submit its observations on the matter. If the examination confirms non-compliance, the Commission shall refuse to reimburse all or part of the expenditure at issue and, where applicable, request reimbursement of advance payments.

*Article 13***Currency**

All fisheries control programmes, claims for reimbursement of expenditure and claims for payment of advances shall be expressed in euro.

Member States not participating in the third stage of economic and monetary union shall specify the exchange rate used.

Reimbursement will be made in euro at the rate for the month in which the claim is received by the Commission.

*Article 14***Information**

Member States shall provide the Commission and the Court of Auditors with any information it may request as regards the implementation of this Decision and the decision provided for in Article 6.

They shall keep supporting documents available to the Commission and the Court of Auditors for at least five years from the date of reimbursement.

*Article 15***Checks**

1. Without prejudice to checks carried out by the Member States in accordance with national laws, regulations and administrative provisions, officials of the Commission and of the Court of Auditors may carry out on-the-spot checks on projects benefiting from a financial contribution.

The Commission may also require the Member State concerned to carry out on-the-spot checks on projects benefiting from a financial contribution. Officials of the Commission and of the Court of Auditors may take part in such checks.

2. If the Commission considers that Community resources have not been used in accordance with the conditions laid down in this Decision or in the decision provided for in Article 6, it shall inform the Member State concerned. If those considerations are not refuted, the Commission shall reduce or cancel the financial contribution to the projects at issue. Any amount unduly paid shall be repaid to the Commission, together with interest.

*Article 16***Reports from the Member States**

Member States shall send the Commission information enabling it to verify the use made of the financial contribution and to assess the impact of the measures provided for in this Decision on control, inspection and surveillance activity.

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To that end, they shall submit to the Commission:

- (a) before 30 March each year, an intermediate assessment report on their fisheries control programme for the previous year covering the following:
 - (i) projects completed;
 - (ii) the cost of projects;
 - (iii) the impact on the fisheries control programmes by applying the indicators listed in the programme;
 - (iv) any adjustment to the original programme.
- (b) by ►**M1** 31 December 2007 ◀, a final assessment report covering the following:
 - (i) projects completed;
 - (ii) the cost of projects;
 - (iii) the impact on the fisheries control programmes by applying the indicators listed in the programme;
 - (iv) any adjustment to the original programme;

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- (v) the impact of the financial contribution on fisheries control programmes over the whole period from 2001 to 2006.

▼B*Article 17***Report to the European Parliament and the Council**

On the basis of the information provided by the Member States pursuant to Article 16, the Commission shall, by ►**M1** 30 June 2008 ◀ at the latest, submit to the European Parliament and to the Council a report on the application of this Decision and Decision 2001/431/EC.

*Article 18***Implementing measures**

Where appropriate, detailed rules for the implementation of this Decision shall be adopted in accordance with the procedure referred to in Article 30(2) of Regulation (EC) No 2371/2002.

*Article 19***Transitional provisions**

As of 1 May 2004, claims for reimbursement relating to the financial contribution for expenditure approved on the basis of Decision 2001/431/EC shall be submitted in accordance with Article 12 of Annex I, part C and Annex II to this Decision.

*Article 20***Application**

This Decision shall apply from 1 January 2004.

*Article 21***Addressees**

This Decision is addressed to the Member States.

*ANNEX I*

Part A

Minimum information requirements for the annual fisheries control programmes as referred to in Article 3

1. For each project the annual fisheries control programme must specify one of the actions referred to in Article 4 and the aim, description, owner, location, estimated cost, administrative procedure to be followed and the timetable for its achievement.
2. As regards the vessels and aircraft as referred to in Article 4(1)(h), the annual fisheries control programme must also specify:
 - (a) to what extent they will be used by the competent authorities for control purposes as a percentage of their use over a year's total activity;
 - (b) how many hours or days over a year they will be used for fishery control purposes;
 - (c) in the case of modernisation, their life expectancy.
3. Whenever possible, there must be publicity as regards the financial support from the Community.

Part B

Detailed rules on eligible actions set out in Article 4

1. Vessel localisation devices referred to in Article 4(1)(b)(i) must be in conformity with the provisions laid down by the relevant Community rules.
2. Expenditure incurred for the action provided for in Article 4(1)(d) will be reimbursed to the extent that it is eligible for reimbursement in conformity with relevant national rules.
3. Expenditure incurred for purchase of equipment referred to in Article 4(1)(h) may be reimbursed to the extent that it is used for control of fishing activity, as declared by the Member State concerned.

Part C

Rules on claims for reimbursement as referred to in Article 12

Claims for reimbursement include the following:

1. a reference to the decision referred to in Article 6 and the table annexed thereto specifying the aid granted;
2. a list of all the supporting documents classified by project;
3. the amounts claimed without VAT, classified by project;
4. a brief description of each project for which a reimbursement is claimed on what has been achieved, accompanied by an assessment of the impact of the investment on monitoring, control and surveillance activity and a forecast of its use.

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ANNEX II

STATEMENT OF EXPENDITURE

PUBLIC EXPENDITURE INCURRED IN CARRYING OUT THE NATIONAL PROGRAMME FOR IMPLEMENTING THE CONTROL, INSPECTION AND SURVEILLANCE SYSTEMS ON FISHERIES ACTIVITIES

As provided for in Article 12 of Council Decision 2004/465/EC

Commission Decision of/No _____
National reference (if any) _____

I, the undersigned _____, representing the authority _____, responsible for the relevant financial and control procedures, hereby certify, after verification, that all amounts shown below represent the total cost, paid in 200_, in accordance with relevant national legislation, with regard to projects approved and referring to actions set out in Article 4(1) of Council Decision 2004/465/EC:

(a)	computer technology and IT networks	_____	EUR ⁽¹⁾
(b)	remote control technology (vessel localisation devices and recording and reporting devices)	_____	EUR
(c)	pilot projects on new technologies	_____	EUR
(d)	training and exchange programmes of control department officials	_____	EUR
(e)	pilot inspection and observer schemes	_____	EUR
(f)	assessment of public expenditure in the control area	_____	EUR
(g)	seminars and media	_____	EUR
(h)	acquisition and modernisation of control, inspection and surveillance equipment	_____	EUR
		=====	EUR

⁽¹⁾ Exact amount to two decimal places.

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I also certify that the statement of expenditure is accurate and the application for payment takes account of any recoveries made.

The operations were carried out in accordance with the objectives laid down in the Council Decision 2004/465/EC, and with the provisions of Regulation (EC) No 2371/2002, in particular as regards:

- compliance with the conditions laid down in that Decision and the Directives concerning the coordination of procedures for the award of public works, supply and service contracts, and in accordance with the detailed rules in part C of Annex I to that Decision,

- application of management and control procedures, in particular to verify the delivery of the products and services co-financed and the reality of expenditure claimed and to prevent, detect and correct irregularities, pursue fraud, and recover unduly paid amounts.

Date .. / .. /

Name capitals, stamp, position
and signature of competent authority