

Commission Implementing Regulation (EU) No 404/2011 of 8 April  
2011 laying down detailed rules for the implementation of Council  
Regulation (EC) No 1224/2009 establishing a Community control system  
for ensuring compliance with the rules of the Common Fisheries Policy

TITLE X

**IMPLEMENTATION**

*CHAPTER I*

***Mutual assistance***

*Section 1*

***General provisions***

*Article 150*

**Scope**

1 This Chapter lays down the conditions under which the Member States shall administratively cooperate with each other, with third countries, with the Commission and with the body designated by it in order to ensure the effective application of the Control Regulation and of this Regulation. It does not prevent Member States to establish other forms of administrative cooperation.

2 This Chapter shall not bind Member States to grant each other assistance where that would be likely to be injurious to their national legal system, public policy, security or other fundamental interests. Before denying a request for assistance, the requested Member State shall consult the applicant Member State to determine whether assistance may be given in part, subject to specific terms and conditions. Where a request for assistance cannot be complied with the applicant Member State and the Commission or the body designated by it shall promptly be notified of that fact and reasons shall be stated.

3 This Chapter shall not affect the application in the Member States of rules on criminal procedure and mutual assistance in criminal matters, including those on secrecy of judicial inquiries.

*Article 151*

**Costs**

Member States shall bear their own costs of executing a request for assistance and shall waive all claims for the reimbursement of expenses incurred in applying this Title.

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## *Article 152*

### **Single authority**

The single authority referred to in Article 5(5) of the Control Regulation shall act as a single liaison office responsible for the application of this Chapter.

## *Article 153*

### **Follow up measures**

1 Where national authorities decide, in response to a request for assistance based on this Chapter or following a spontaneous exchange of information, to take measures which may be implemented only with the authorisation or at the demand of a judicial authority, they shall communicate to the Member State concerned and the Commission or the body designated by it any information on those measures which is related to non-compliance with rules of the Common Fisheries Policy.

2 Any such communication must have the prior authorisation of the judicial authority if such authorisation is required by national law.

## *Section 2*

### ***Information without prior request***

## *Article 154*

### **Information without prior request**

1 When a Member State becomes aware of any potential non-compliance with the rules of the Common Fisheries Policy, in particular serious infringement referred to in Article 90(1) of the Control Regulation or reasonably suspects that such an infringement may occur, it shall notify the other Member States concerned and the Commission or the body designated by it, without delay. That notification shall supply all necessary information and shall be made via the single authority as referred to in Article 152 of this Regulation.

2 When a Member State takes enforcement measures in relation to a non-compliance or an infringement referred to in paragraph 1, it shall notify the other Member States concerned and the Commission or the body designated by it via the single authority as referred to in Article 152 of this Regulation.

3 All notifications according to this Article shall be made in writing.

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### Section 3

#### **Requests for assistance**

##### Article 155

#### **Definition**

For the purpose of this Section ‘request for assistance’ means a request addressed by one Member State to another Member State or by the Commission or the body designated by it to a Member State for:

- (a) information including information according to Article 93(2) and (3) of the Control Regulation;
- (b) enforcement measures; or
- (c) administrative notification.

##### Article 156

#### **General requirements**

1 The applicant Member State shall ensure that all requests for assistance contain sufficient information to enable a requested Member State to fulfil the request, including any necessary evidence obtainable in the territory of the applicant Member State.

2 Requests for assistance shall be limited to substantiated cases where there is reasonable cause to believe that non-compliance with rules of the Common Fisheries Policy, in particular serious infringements referred to in Article 90(1) of the Control Regulation have occurred and where the applicant Member State is not able to obtain the requested information or to take the requested measures by its own means.

##### Article 157

#### **Transmission of requests and replies**

1 Requests shall only be sent by the single authority of the applicant Member State, by the Commission or the body designated by it to the single authority of the requested Member State. All replies to a request shall be communicated in the same way.

2 Requests for mutual assistance and the respective replies shall be made in writing.

3 The languages used for requests and replies shall be agreed by the single authorities concerned before requests are made. If no agreement can be reached, requests shall be communicated in the official language(s) of the applicant Member State and replies in the official language(s) of the requested Member State.

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## Article 158

### Requests for information

1 A Member State shall, at the request of an applicant Member State, of the Commission or the body designated by it, supply any relevant information required to establish whether non-compliance with the rules of the Common Fisheries Policy, in particular serious infringements as referred to in Article 90(1) of the Control Regulation, have occurred or to establish whether there is a reasonable suspicion it may occur. That information shall be supplied via the single authority as referred to in Article 152 of this Regulation.

2 The requested Member State shall, at the request of the applicant Member State, of the Commission or the body designated by it, carry out the appropriate administrative enquiries concerning operations which constitute or appear to the applicant to constitute non-compliance with the rules of the Common Fisheries Policy, in particular serious infringements referred to in Article 90(1) of the Control Regulation. The requested Member State shall communicate the results of such administrative enquiries to the applicant Member State and to the Commission or the body designated by it.

3 At the request of the applicant Member State, of the Commission or the body designated by it, the requested Member State may permit a competent official of the applicant Member State to accompany the officials of the requested Member State, the Commission or the body designated by it, in the course of administrative enquiries referred to in paragraph 2. In so far as national provisions on criminal proceedings restrict certain acts to officials specifically designated by national law, the officials of the applicant Member State shall not take part in such acts. In no event, shall they participate in searches of premises or the formal questioning of persons under criminal law. The officials of the applicant Member States present in the requested Member State must at all time be able to present written authority stating their identity and their official functions.

4 At the request of the applicant Member State, the requested Member State shall supply it with any document or certified true copies in its possession which relates to non-compliance with the rules of the Common Fisheries Policy or serious infringements referred to in Article 90(1) of the Control Regulation.

5 The standard form for the exchange of information on request is set out in Annex XXXIV.

## Article 159

### Requests for enforcement measures

1 A requested Member State shall, based on the evidence referred to in Article 156 of this Regulation, at the request of an applicant Member State, of the Commission or the body designated by it, take all necessary enforcement measures to bring about the cessation, within its territory or within maritime waters under its sovereignty or jurisdiction, of any non-compliance with the rules of the Common Fisheries Policy or serious infringements referred to in Article 90(1) of the Control Regulation without delay.

2 The requested Member State may consult the applicant Member State, the Commission or the body designated by it in the course of taking the enforcement measures referred to in paragraph 1.

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3 The requested Member State shall report the measures taken and their effect to the applicant Member State, the other Member States concerned, the Commission or the body designated by it, via the single authority as referred to in Article 152 of this Regulation.

#### *Article 160*

##### **Deadline for replies to requests for information and enforcement measures**

1 The requested Member State shall provide the information referred to in Articles 158(1) and 159(3) of this Regulation as quickly as possible, but not later than 4 weeks following the date of receipt of the request. Different time limits may be agreed between the requested and the applicant Member State, the Commission or the body designated by it.

2 Where the requested Member State is unable to respond to the request by the deadline, it shall inform the applicant Member State, the Commission or the body designated by it in writing of the reason for its failure to do so, and indicate when it considers it will be able to respond.

#### *Article 161*

##### **Requests for administrative notification**

1 A requested Member State shall, at the request of an applicant Member State and in accordance with its national rules governing the notification of similar instruments and decisions, notify the addressee of all instruments and decisions taken in the field covered by the Common Fisheries Policy, in particular on issues regulated under the Control Regulation or this Regulation which emanate from the administrative authorities of the applicant Member State and are to be served in the territory of the requested Member State.

2 Requests for notification shall be made using the standard form attached to this Regulation in Annex XXXV.

3 The requested Member State shall transmit its reply to the applicant Member State immediately after the notification via the single authority referred to in Article 152 of this Regulation. The reply shall be made using the standard form set out in Annex XXXVI.

#### *Section 4*

##### ***Relations with the Commission or the body designated by it***

#### *Article 162*

##### **Communication between the Member States and the Commission or the body designated by it**

1 Each Member State shall communicate to the Commission or the body designated by it as soon as it is available to it any information it considers relevant concerning methods, practices or revealed tendencies used or suspected of having been used in cases of non-compliance with the rules of the Common Fisheries Policy, in particular in serious infringements as referred to in Article 90(1) of the Control Regulation.

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2 The Commission or the body designated by it shall communicate to the Member States, as soon as it becomes available to it, any information that would help them in the enforcement of the Control Regulation or of this Regulation.

### *Article 163*

#### **Coordination by the Commission or the body designated by it**

1 Where a Member State becomes aware of operations which constitute, or appear to constitute, non-compliance with the rules of the Common Fisheries Policy, in particular serious infringements referred to in Article 90(1) of the Control Regulation, and which are of particular relevance at Union level, it shall communicate to the Commission or the body designated by it as soon as possible any relevant information needed to determine the facts. The Commission or the body designated by it shall convey that information to the other Member States concerned.

2 For the purposes of paragraph 1, operations which constitute non-compliance with the rules of the Common Fisheries Policy, in particular serious infringements as referred to in Article 90(1) of the Control Regulation shall be deemed to be of particular relevance at the level of the European Union especially where:

- a they have, or might have, connections in one or more Member States; or
- b it appears likely to the Member State that similar operations have also been carried out in other Member States.

3 Where the Commission or the body designated by it considers that operations which constitute non-compliance with the rules of the Common Fisheries Policy, in particular serious infringements as referred to in Article 90(1) of the Control Regulation have taken place in one or more Member States, it shall inform the Member States concerned thereof which shall as soon as possible carry out enquiries. The Member States concerned shall, as soon as possible, communicate to the Commission or the body designated by it the findings of those enquiries.

### *Section 5*

#### ***Relations with third countries***

### *Article 164*

#### **Information exchange with third countries**

1 When a Member State receives information from a third country or a Regional Fisheries Management Organisation which is relevant for the effective application of the Control Regulation and this Regulation, it shall communicate that information via the single authority to the other Member States concerned, to the Commission or the body designated by it, in so far as it is permitted to do so by bilateral agreements with that third country or the rules of that Regional Fisheries Management Organisation.

2 Information received under this Chapter may be communicated to a third country or a Regional Fisheries Management Organisation by a Member State via its single authority under a bilateral agreement with that third country or in accordance with the rules of that Regional Fisheries Management Organisation. That communication shall take place after consultation of the Member State that originally communicated the information and in accordance with EU

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and national legislation regarding the protection of individuals with regard to the processing of personal data.

[<sup>F13</sup> The Commission or the body designated by it may, in the framework of sustainable fisheries partnership agreements or of fisheries partnership agreements concluded between the Union and third countries or in the framework of Regional Fisheries Management Organisations or similar arrangements to which the Union is a Contracting Party or a non-contracting Cooperating Party, communicate relevant information concerning non-compliance with the rules of the Common Fisheries Policy or serious infringements referred to in Article 42(1)(a) of Regulation (EC) No 1005/2008 and in Article 90(1) of the Control Regulation to other parties to those agreements, organisations or arrangements, subject to the consent of the Member State that supplied the information and in accordance with Article 9 of Regulation (EC) No 45/2001<sup>(4)</sup>.]

#### Textual Amendments

- F1** Substituted by [Commission Implementing Regulation \(EU\) 2015/1962 of 28 October 2015 amending Implementing Regulation \(EU\) No 404/2011 laying down detailed rules for the implementation of Council Regulation \(EC\) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy.](#)

## CHAPTER II

### **Reporting obligations**

#### *Article 165*

#### **Format and deadlines for reports**

1 For the 5 years-report as referred to in Article 118(1) of the Control Regulation Member States shall use the data defined in Annex XXXVII.

2 The report stating the rules that have been used for producing reports on basic data as referred to in Article 118(4) of the Control Regulation shall be sent 6 months after the entry into force of this Regulation. Member States shall send a new report when these rules are modified.

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- (1) [<sup>F1</sup>Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ([OJ L 8, 12.1.2001, p. 1](#)).]

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**Changes and effects yet to be applied to :**

- Regulation continued by [S.I. 2019/739 reg. 5\(1\)](#)

**Changes and effects yet to be applied to the whole legislation item and associated provisions**

- Title 10 s. 3 omitted by [S.I. 2019/739 reg. 5\(102\)](#)
- Title 10 s. 4 omitted by [S.I. 2019/739 reg. 5\(102\)](#)
- Title 10 s. 5 omitted by [S.I. 2019/739 reg. 5\(102\)](#)
- Art. 2(1) omitted by [S.I. 2019/739 reg. 5\(3\)\(a\)](#)
- Art. 2(2) omitted by [S.I. 2019/739 reg. 5\(3\)\(a\)](#)
- Art. 2(4) omitted by [S.I. 2019/739 reg. 5\(3\)\(b\)](#)
- Art. 2(12) words substituted by [S.I. 2019/739 reg. 5\(3\)\(c\)](#)
- Art. 2(14) omitted by [S.I. 2019/739 reg. 5\(3\)\(d\)](#)
- Art. 2(15) words substituted by [S.I. 2019/739 reg. 5\(3\)\(e\)](#)
- Art. 2(17) words omitted by [S.I. 2019/739 reg. 5\(3\)\(f\)](#)
- Art. 2(19) inserted by [S.I. 2019/739 reg. 5\(3\)\(g\)](#)
- Art. 7(1)(e) words substituted by [S.I. 2019/739 reg. 5\(9\)\(b\)\(iii\)](#)
- Art. 18(2)(a) words substituted by [S.I. 2019/739 reg. 5\(15\)\(c\)\(ii\)](#)
- Art. 23(c) words substituted by [S.I. 2019/739 reg. 5\(20\)\(c\)](#)
- Art. 33(1)(c) words substituted by [S.I. 2019/739 reg. 5\(30\)](#)
- Art. 39(2)(a) words substituted by [S.I. 2019/739 reg. 5\(35\)\(b\)\(i\)](#)
- Art. 39(2)(e) words substituted by [S.I. 2019/739 reg. 5\(35\)\(b\)\(ii\)](#)
- Art. 42(1)(a) words substituted by [S.I. 2019/739 reg. 5\(38\)\(a\)\(ii\)](#)
- Art. 42(1)(b) word substituted by [S.I. 2019/739 reg. 5\(38\)\(a\)\(iii\)](#)
- Art. 42(1)(c) word substituted by [S.I. 2019/739 reg. 5\(38\)\(a\)\(iii\)](#)
- Art. 47(1)(e) words substituted by [S.I. 2019/739 reg. 5\(43\)\(a\)\(iii\)](#)
- Art. 62(1)(b) words omitted by [S.I. 2019/739 reg. 5\(52\)\(a\)\(iv\)](#)
- Art. 62(1)(c) words substituted by [S.I. 2019/739 reg. 5\(52\)\(a\)\(v\)](#)
- Art. 67(13)(a) words omitted by [S.I. 2019/739 reg. 5\(54\)\(c\)](#)
- Art. 80(1)(d) words substituted by [S.I. 2019/739 reg. 5\(63\)\(b\)\(iv\)](#)
- Art. 99(d) omitted by [S.I. 2019/739 reg. 5\(76\)](#)
- Art. 105(1)(b) words substituted by [S.I. 2019/739 reg. 5\(78\)\(a\)](#)
- Art. 113(2)(a) words substituted by [S.I. 2019/739 reg. 5\(84\)\(b\)](#)