



How to better use EU citizens' money in fisheries beyond 2020

Contents

Key recommendations for the future European Maritime and Fisheries Fund (EMFF)	3
Introduction	4
The use of EMFF today: 5 positive facts	5
1 Conservation measures: a rewarding choice	5
2 Safety, security and working conditions for fishers: making the right choice	6
3 Cooperation between fishers and scientists: an innovative choice	7
4 Data collection and fisheries control: a fully exploited choice	8
5 The conditionality clause: a fair choice	9
The EMFF today: 5 worrying facts	10
1 Ignoring the fisheries economic context: a misguided choice	10
2 Ensuring generational renewal through acquisition of first fishing vessels: an inadequate choice in the long term	11
3 Capacity enhancing measures: an irresponsible choice	12
4 Making large-scale fishers the biggest beneficiaries: an unfair and unsustainable choice	13
5 Small spending on the landing obligation: a non-compliant choice	14
Conclusion	15
Endnotes	16

Key recommendations for the future European Maritime and Fisheries Fund (EMFF)¹

The Council, the European Parliament and the Commission should:

- Maintain the conditionality clause to foster a culture of compliance in the sector and ensure a level playing field among EU fishers.
- Not allow investments that can lead to an increase of fishing capacity.
- Make small-scale fishers preferential receivers of EU money and limit the access to EU funds for large-scale fishers only to certain projects such as projects implementing the landing obligation, training fishers or increasing the selectivity of their fishing gears.
- Promote generational renewal through other means than the acquisition of a first fishing vessel.
- Increase funds available for the implementation of data collection and fisheries control.

When agreeing on future operational programmes, Member States and the European Commission should:

- Propose investments based on a strategic analysis of national fisheries economic context in order to finance projects that are beneficial for coastal communities, fishers and the EU marine environment.
- Include and promote more measures linked to the restoration and conservation of the marine environment, in particular by dedicating at least 25% of the overall EU budget to those measures.
- Promote projects of cooperation between fishers and scientists to create a culture of co-ownership of environmentally innovative projects.
- Propose large numbers of training to improve safety and security of fishers.
- Promote investments to implement the landing obligation effectively.



Introduction

EU fisheries subsidies can support the implementation of the EU Common Fisheries Policy (CFP) but also delay and weaken its proper implementation. If decision makers at EU level and national authorities use public financing for counterproductive investments, policy objectives are seriously jeopardised. Decisions on EU funds for 2021 until 2027 (the future EMFF) will be finalised in the coming months. Being aware of how funding has been spent in previous years is now critical in making the right choices for the future.

In the last 20 years,² and in particular during the adoption of the current EMFF, certain types of fisheries subsidies have been identified as being environmentally, socially and economically harmful: in particular, capacity enhancing subsidies and subsidies that artificially maintain fishers in the sector.³ Fisheries economists⁴ consider eliminating those harmful as a crucial step for the economic, social and environmental medium to long-term viability of the sector. At international level, eliminating harmful subsidies by 2020 is also a major target to achieve Sustainable Development Goal 14 on the conservation and sustainable use of

oceans, seas and marine resources.⁵ Furthermore, at the World Trade Organization (WTO), international negotiations have been ongoing for a decade to reach an agreement for eliminating those subsidies in fisheries.⁶ The EU has been actively involved in those negotiations and traditionally has strongly defended this approach. The positions of the Council⁷ and of the European Parliament⁸ on the future EMFF propose to introduce several types of harmful subsidies and to weaken conditions that ensure that subsidies are not jeopardising the objectives of the CFP.

This report,⁹ which is based on the analysis of documents, 2017 and 2018 implementation reports¹⁰ and on publicly available information relating to three selected Member States (France, Spain and Ireland), should help decision makers at EU level and national level to make consistent choices for the use of EU citizen's money between 2021 and 2027. There is an opportunity in the years to come for the EU fisheries sector to achieve environmental, economic and social sustainability and to become a vibrant sector that plays a leading role at global level by implementing international commitments.



The use of EMFF today: 5 positive facts

1. Conservation measures: a rewarding choice

In 2018,¹¹ the Irish authorities revised their operational programme for the EMFF and eliminated the possibility of using EU subsidies for permanent cessation. Projects that clearly benefitted from this change compared to the 2017 implementation report¹² were those aiming at reducing the impact of fisheries on the marine environment.¹³ These projects included investments aiming at avoiding and reducing unwanted catches or protecting and restoring aquatic biodiversity and ecosystems. The Irish Marine Biodiversity Scheme has expanded and has since 2018, covered not only projects for the promotion of environmentally sustainable fisheries but also the conservation and restoration of the marine environment. The projects financed ranged from improvement gear selectivity to address the landing obligation, lobster V-notching Scheme, assessment of fisheries in Natura areas, restoration of native oysters, the development of a cetacean-friendly device to reduce seal-fisheries interactions, to projects assisting fishers to meet the challenges of the landing obligation.

The 2018 Spanish report indicated that

305/3,105

projects were dedicated to the protection and restoration of the environment and 1,558/3,105 were dedicated to temporary cessation

The French implementation reports¹⁴ show that the priorities of the operational programme were more linked to the investments on board, support for young fishers' start-ups or permanent cessation. The report also states that the projects in partnership between fishers and scientists were working well, especially for the exploratory fishing. The report highlights that environmental projects financed were only used sparingly to evaluate the impact of fishing in Natura2000 areas or to restore or protect those areas.¹⁵

The 2017 Spanish report indicated that 200 out of 1,830 projects were dedicated to the protection and restoration of the environment¹⁶ while the 2018 report indicates that 305 projects out of 3,105 were dedicated to this same objective.¹⁷ There is no indication as to what type of projects were concretely financed. This lack of information is regrettable since different types of measures can be financed under this objective, such as the collection of waste by fishers, management of marine protected areas or compensation schemes for damage caused by mammals and birds.¹⁸ Comparatively, for the same period 1,558 projects were financed for temporary cessation.

In the evaluation of the implementation of measures linked to conservation and restoration of the marine environment for 2018, the Spanish authorities seemed to be surprised that 201 projects were financed instead of the 16 given as an indicator of success.¹⁹ Despite initial low expectations in financing projects linked to conservation and restoration of marine environment, the reality shows that there is a high demand to finance those projects. If there was a real push and promotion of these types of projects by national authorities in charge of managing EU funds in Spain, it is probable that even more projects could be financed and developed. This would benefit the marine environment including fish stocks and the coastal communities and fishers depending from it.

Our recommendation for the future operational programmes:

National authorities and the Commission should promote and invest more in measures linked to the conservation and protection of fish stocks and marine environment in particular by dedicating at least 25% of the overall EU budget to those measures. These measures bring a huge benefit both to the sector and to coastal communities, reflecting the need to use public money for public goods.



2. Safety, security and working conditions for fishers: making the right choice

Investments linked to safety, security and working conditions can be financed under several measures ranging from investments on board or in port to training of fishers.²⁰

In 2017, in France there were no projects which were selected linked to these type of investments despite the availability of funds for this purpose.²¹ The 2018 French report indicates that investments connected to safety, security and working conditions are still the least used.²² Among the projects financed, the report mentions improvement of working conditions in the seashell sector through automation of certain tasks and reduction of the carrying of heavy loads. A discussion with national authorities clarified that investments on board and in port facilities are not financed if they are merely implementation of legal requirements. However, investment beyond legal requirements and investment in training of fishers or investments to improve working conditions on board could still have been financed under the EMFF.

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The 2018 Spanish report indicates that 200 projects linked to safety and working conditions were financed without specifying any type of investment. This means a lot of different type of projects were financed from vocational training of fishers to investments on board or in the processing industry. For the same year, 1,558 projects were dedicated to financing temporary cessation.²³ This shows that Spanish authorities have decided to finance temporary cessation over measures aiming at increasing safety, security or working conditions on board. Spanish authorities have done this choice despite the fact that temporary cessation are economically unsustainable subsidies that contribute to maintaining fishing effort by artificially increasing profitability in the short-term.²⁴

The 2017 Irish report indicates that under on board investments financed, public aid was granted for equipment to improve hygiene, health and working conditions on board such as sanitary facilities and galley facilities for crew, equipment to reduce manual lifting, insulation and increase ventilation.²⁵ The report confirms that demands for these type of investments were strong and that half of the investments went to small-scale fisheries vessels. In 2018, the trend was similar for the investments on board. In addition, the Irish authorities developed a 'Seafood skills and training', which attracted 59 applications for aid only during 2018.²⁶ Finally, the Fishery Harbour Scheme also aimed at improving safety conditions and working conditions in harbours.

While the French and Spanish reports do not specify what measures were financed under the priority aiming at increasing safety and security of fishers and their working conditions, Ireland clearly decided to give priority to all types of investments contributing to this objective including training of fishers.

The analysis of these implementation reports shows that the strategic choices of Member States are key for driving these investments. Member States under the current EMFF could have decided to dedicate more funds to safety in particular to training. Indeed technical recommendations of the FAO on responsible fishing²⁷ describing best practices for safety at sea indicate that *'the main reason for accidents in the fishing industry is human error (...) rather than the design and construction of unsafe boats'*.

The FAO report further indicates that *'within this [fishing] competitive environment, increased investment in speed and catching efficiency further aggravates the problems (of safety and security on board) because investment repayment drives the urgency to catch more fish.'*

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A study of 2018 carried out by the European Parliament confirms that better training of fishers is still the best way to tackle safety and security issues at sea.²⁸

In October 2019,²⁹ the European Commission, in its presentation to the European Parliament on the implementation of the EMFF, stated that investments for safety, security and working conditions can be financed without increasing the fishing capacity.

Since investments in safety, security and working conditions are high on the priorities for Member States in the discussions around the future EMFF³⁰ and that EU fishing industry representatives are also in favour of more training in the EU,³¹ EU decision makers should dedicate more funds to safety and security at sea by promoting investments in training.

Our recommendation for the future EMFF:

EU decision makers should prioritise training of fishers for the purpose of safety and security at sea over any investments on board. When implementing the future EMFF, any investment on board for safety or security reasons should only be allowed if fishers working on vessels for which the investments on board are needed, receive specific training dedicated to safety and security.



3. Cooperation between fishers and scientists: an innovative choice

The 2017³² and 2018³³ French implementation reports describe partnerships between scientists and fishers as highly demanded and successful measures. The financed projects cover research of species of commercial interest not covered in the data collection programme. Research is more oriented at looking at other potentially exploitable species rather than at reducing the impact of fishing on fish stocks or on the marine environment. Research linked to engine selectivity in France is not carried out in the framework of partnership with scientists, but of innovation linked to the conservation of marine biological resources.³⁴ Innovation projects are developed by fishers and then must be validated by a scientist, which means that scientists are unfortunately not involved in projects from the very beginning.

Only 15 projects on partnerships between scientists and fishers were financed in Spain according to the implementation reports between 2016 and 2018.³⁵ However collaboration with scientists seems to take place in the framework of the work for the management, conservation and restoration of marine protected areas and Natura2000 areas.³⁶

The Irish reports do not mention partnerships with scientists despite having a broad Marine Biodiversity Scheme, making it impossible to assess whether this measure was used or not.³⁷

Projects of cooperation bring scientists and fishers together at an early stage to develop innovative fishing techniques, gears or devices to reduce by-catch. Common projects are expected to be more successful when fishers and scientists collaborate and feel stronger co-ownership.

Our recommendation for the future EMFF:

Given the potential synergies between scientists and fishers, Member States should promote and incentivise these collaborative projects.



4. Data collection and fisheries control: a fully exploited choice

The EMFF must support the implementation in the Member States of the Fisheries Control Regulation³⁸ and of the EU Data Collection Framework (DCF).³⁹ The Fisheries Control Regulation sets fisheries control requirements to properly implement and enforce the CFP. Under the DCF Member States must collect, manage and make available a wide range of fisheries data needed for scientific advice. Each Member State has quite a prescriptive national data collection plan. Availability and quality of these data are fundamental requirements to having reliable scientific advice underpinning fisheries management decisions. Having a CFP that is properly implemented and is able to deliver its objectives depends on having a proper implementation of the Fisheries Control Regulation and the DCF.

In all three Member States the use of funds for financing projects on control of fisheries and the data collection has been important.⁴⁰

This has been confirmed by the presentation of the European Commission to PECH Committee of the European Parliament in October 2019, which showed that by December 2018, in all relevant Member States, more or less 40% of the funds committed for Fisheries Control was spent and more or less 60% of the funds for data collection.⁴¹ Member States had to make significant investments for the effective implementation of the new ambitious control regime dating from 2009, which requires the deployment of innovative data control and monitoring systems and the implementation of new traceability infrastructures.

The Irish reports indicate that funds are spent on the collection of biological data with a large number of sea trips and port sampling trips, internationally coordinated off shore research programmes or on international coordination of fisheries data collection and analysis. The French authorities report that they implemented their obligations under the data collection framework. The report does not list any particular activities financed with the EMFF but it does report back that the quality of the data collected has increased, which increases the reliability of scientific advice used to adopt fisheries management measures.

The Irish reports are more detailed. Funds for fisheries control were spent for example on:

- providing replacement of old equipment for fishing vessel electronic logbooks,
- inspection tools for national inspectors,
- raising awareness of the CFP amongst stakeholders to improve compliance,
- establishing a national capacity to test engine power,
- replacing the existing Vessel Monitoring System (VMS) on all Irish fishing vessels above 12 meters.

In France, funds for control were spent on modernisation or purchase of patrol vessels, aircrafts and helicopters and on the development of information systems. The Spanish reports indicate that funds were used to implement the data collection programme and the obligations under the Fisheries Control Regulation without any listing of precise investments.

Our recommendation for the future EMFF:

Funds for data collection and control were largely and quickly used until 2018. Despite the investments that have already taken place to implement Fisheries Control, a lot still needs to be done as already highlighted by the European Court of Auditors report in 2017⁴² including for the control of the landing obligation.⁴³ Data collection and management are ongoing tasks necessary to have reliable scientific advice to underpin EU fisheries management measures, which also require substantial financial means. Having solid fisheries control in place and robust data, which support the CFP will lead to sustainable fisheries in the EU. Increasing both envelopes for Fisheries Control and Data Collection, in the future EMFF would be beneficial for all actors involved in the implementation of the CFP.

5. The conditionality clause: a fair choice

The conditionality clause was introduced in the CFP Basic Regulation⁴⁴ and in the EMFF⁴⁵ to ensure that only those operators who comply with the rules of the CFP and of EU environmental law could receive and keep EU subsidies.

The EMFF indeed makes EU subsidies conditional upon the non-commission of a 'serious infringement' of the CFP (as defined in EU legislation), meaning that if an operator commits an infringement not classified as 'serious', he would still be able to receive and/or keep aid under the EMFF. In order to render this rule proportional and implementable, the delegated act implementing this provision creates an additional link to the Fisheries Control Regulation⁴⁶ and stipulates that if the infringement points cumulated by the fisher or vessel owner requesting EU aid remains below the ceiling of 9 penalty points, the application for support is still admissible.⁴⁷

France, Ireland and Spain, as reported in their respective implementation reports, have included clear administrative and procedural steps for implementing the conditionality clause and ensuring that for a given potential beneficiary there is no record of him having committed fraud or serious infringements up to 9 penalty points.

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248

requests for funding were identified as not respecting the conditionality clause

The Spanish reports indicates that in 2017 and 2018, 248 requests for funding were identified as not respecting the conditionality clause. In France for the same period, only two beneficiaries were identified as having committed too many serious infringements. In Ireland, the national authorities recognised the deficiencies of their national system in implementing the control regulation⁴⁸ and therefore all applications have been considered admissible.⁴⁹ This raises questions about the different interpretation and level implementation of certain control measures by the Member States and the lack of a level playing field for fishers at European level.

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The administrative procedures to undertake the necessary conditionality checks before granting EU aid are well in place in all three Member States and should be maintained in the future EMFF in order to secure consistent spending of EU public money.

The struggle in implementing conditionality is linked to existing problems in implementing and enforcing the control regulation, which should also benefit from more EU funds in the future.

However, the current lack of level playing field concerning the effective enforcement of sanctions for serious infringements might create a supplementary discrimination and unfair commitment of EU money among EU fishers. Depending on the Member State where the serious infringement has been committed, the fishers do not receive the same treatment with regard to administrative sanctions and admissibility to EU funds. Therefore, it is of utmost importance that the conditionality clause is implemented for all operators of all Member States in a similar and consistent way.

Our recommendation for the future EMFF:

The conditionality clause needs to be maintained in the future EMFF to ensure that EU funds are not misallocated to fishers or other economic actors in the fisheries sector that do not comply with the rules and could possibly misuse EU public money.⁵⁰ France, Ireland and Spain already have the administrative procedures in place to implement the conditionality clause in the EMFF. Having a fully effective conditionality clause will depend on proper implementation of the Fisheries Control Regulation and its penalty point system.⁵¹

The EMFF today: 5 worrying facts

1. Ignoring the fisheries economic context: a misguided choice

The 2018 French report highlights that the fisheries economic context in which the EMFF operates is actually very positive, as there is a stability of the catches between 2015 and 2018 accompanied by 18% increase of the price of the fish.⁵² This means that, despite remaining economic disparities, overall the sector is more and more profitable and doing well as echoed also in the most recent annual economic report on the EU fishing fleet.⁵³

The French report also indicates that a private fund was set up by the fisheries sector to finance modernisation and on board investments. It is not clear which part of the fisheries sector set up this fund nor which part of the sector or fleet can benefit from it. However, the French authorities consider that the existence of this private fund explains partially why the EU funds assigned for modernisation on board of fishing vessels are not used. Bearing these two contextual elements in mind, national authorities should not have planned to finance investments on board with EU public money since at least a part of the fisheries sector can afford those private investments.

In 2018, the Irish authorities decided to withdraw the support for permanent cessation in their Operational Programme for the implementation of the EMFF, as these measures were clearly not adapted to the Irish economic context.⁵⁴

In 2018, the Spanish report indicates that permanent cessation was not subsidised.⁵⁵ The reason given is that the conditions in the EMFF are too difficult to fulfil.⁵⁶

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Despite the same socio-economic context for the whole fisheries sector in the EU, the three Member States followed different approaches concerning financial support for permanent cessation and investments on board. Member States should follow others best practices by modifying their operational programme when some selected measures are not needed, costly as well as inefficient, and economically and environmentally harmful.

The European Commission, when reporting on the implementation of the EMFF in October 2019 in the PECH committee, stated that permanent cessation and investments on board including engine replacements still receive the vast majority of funding throughout the EU, despite the changes in the economic context of the EU fishing fleet highlighted in the French report but more generally in the 2018 STECF report.⁵⁷ Despite the fact that profitability in the EU fisheries sector globally has increased since 2014,⁵⁸ the Commission and the Member States did not take into account this trend when they prepared the operational programmes for the EMFF. Profitability increased in the following years and only Ireland modified its operational programme to eliminate measures that were not used.

Our recommendation for the future EMFF:

EU decision makers, national authorities and the European Commission must take into account the economic context as well as the lessons learned from the actual implementation. The future EMFF should be designed to address the more pressing needs of the fisheries sector, the fish stocks and the marine ecosystems.



2. Ensuring generational renewal through acquisition of first fishing vessels: an inadequate choice in the long term

The 2018 French report indicates that the number of first acquisitions of vessel for young fishers remain relatively low with 82 projects compared to the final objective of 400 projects by 2023.⁵⁹ In terms of jobs created in 2018, only 58% of the 2023 objective was achieved. In terms of spending foreseen this measure was heavily supported with 3.4 million EUR spent in 2018, representing only 32% of the total budget allocated to this measure between 2014 and 2020.

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The 2018 Irish report indicates that the use of this measure is impressively low with 5 projects financed between 2017 and 2018 and a target value for the 7 years programming period of 15 projects financed.⁶⁰ The overall spending of public money (EU and national) is 0,28 million EUR in 2018 and a total allocated for the whole programming period of 0,5 million EUR.⁶¹

In the 2018 report Spanish authorities regret that due to the conditions set in the EMFF, the use of the acquisition of first fishing vessel was not as high as planned. The demand came from the small-scale fisheries sector for which overcapacity was established compared to the available fishing opportunities.⁶² The report also underlines that the limited uptake of this measure as an impact on the overall uptake of money of the programme. This indicates that a lot of money was planned to be spent on these investments.⁶³

The “start-up support” for young fishers covers the direct payments of EU funds for a contribution of 25% capped at a maximum of 75,000 EUR of the cost of the acquisition of a first fishing vessel for a young fisher of the age of 40 or below. This measure requires that the fishing activity the fisher is engaging in is in a fleet segment where there is a balance between the fishing opportunities available and the capacity of that fleet segment.⁶⁴

The acquisition of first vessel is a capacity enhancing investment and thus goes against the international commitments of the EU in the framework of the implementation of the Sustainable Development Goals as well as all experts' advice on fisheries subsidies as indicated above.⁶⁵

Subsidising new fishers to enter the sector artificially inflates the short-term profitability of such a venture and could lead to an unsustainable increase in fishing pressure. It also creates a culture of dependency rather than of entrepreneurship, innovation and self-sufficiency.

Our recommendation for the future EMFF:

EU decision-makers should not allow the financing with EU funds of the acquisition of a first fishing vessel for young fishers. In future, generational renewal should be happening because the sector is vibrant and attracts young fishers for its long-term opportunities and not because the acquisition of a first fishing vessel is financed. EU funding could offer better long-lasting tools to young fishers to be resilient and innovative fisheries entrepreneurs such as marketing, research, innovation or knowledge-based tools.

3. Capacity enhancing measures: an irresponsible choice

In the 2018 French implementation report, national authorities denounce that certain capacity enhancing measures (modernisation of fishing vessels and replacement of engines) are not used enough because of the requirement that fishing capacity enhancing investments can only take place when there is no imbalance between the fishing capacity and the available fishing opportunities.⁶⁶

The Spanish authorities also largely complain about this requirement⁶⁷ and regret that the vast majority of the investments that were traditionally subsidized are not eligible, which diminishes the potential audience that can access these funds.

These requirements are however, indispensable safeguards to avoid that subsidies further exacerbate the problem of overcapacity of certain fleet segments and therefore lead to more overfishing.

The European Commission clearly explained in its presentation in the above-mentioned PECH committee⁶⁸ that the conditions set in the CFP Basic Regulation⁶⁹ and the EMFF⁷⁰ ensure that modernisation of fishing vessels are in line with the requirements of the SDG 14.6.

Our recommendation for the future EMFF:

It is highly recommended that national authorities in future take responsibility for the fact that certain fish stocks are overfished and that granting capacity enhancing subsidies to fleets targeting overfished stocks will only aggravate the problems of the EU fisheries sector. If EU decision makers cross this redline and include any capacity enhancing investment in the future EMFF, the bare minimum is that they include conditions to adjust the fishing capacity of each fleet segment with the available fish opportunities. This would ensure that EU citizens' money does not jeopardise even more the situation of fish stocks in EU waters and of EU fishers and that national authorities diligently implement, respect and value those conditions.



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4. Making large-scale fishers the biggest beneficiaries: an unfair and unsustainable choice

During its presentation in the PECH committee of the European Parliament in October 2019, the European commission⁷¹ confirmed that 80% of EU funds still go to large scale fishing vessels above 12 meters. Throughout the EU, small-scale fishers are the ones that need most support as they face various challenges including accessing quotas⁷² and therefore accessing the very resources that allow them to make a living. Large fishing vessels are also the ones that have the greatest impact on the fish stocks and the marine ecosystems.⁷³ None of the national reports examined makes it clear how much funding is dedicated to large-scale industry and how much goes to small-scale fishers. It is crucial to increase the level of transparency in this regard.

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Our recommendation for the future EMFF:

EU funds should as a matter of priority be available primarily for small-scale fishers. Access for large scale could be limited to only certain projects such as increasing selectivity, adapting to the landing obligation or improving the weighing systems.



5. Small spending on the landing obligation: a non-compliant choice

Member States and fishers could have made the choice to use EMFF funds to implement the landing obligation and control it. The reports show that this choice was not made.

The 2018 French report shows that investments implementing the landing obligation are very limited and uncoordinated among the relevant actors: fishers, port authorities, producers' organisations and fisheries control authorities. The report indicates that port authorities have not invested in adapting harbour and landing sites to the landing obligation.⁷⁴ It further explains that fishers concentrated on improving the selectivity of engine in order to avoid unwanted catches in the first place.

However, the French report states that the objective of reducing unwanted catches by 17,000 tonnes by 2023 has only been covered up to 2% in 2018.⁷⁵ This same report also highlights that the measures linked to improving selectivity⁷⁶ are not used very much and in particular that fishers did not want to use EU funds to 'anticipate' the implementation of the landing obligation.⁷⁷

French authorities justify the lack of investments in port facilities by considering that the year 2018 does not correspond to a period of full implementation of the landing obligation. This shows that the phasing-in period of the full implementation of the landing obligation was not used to make the adequate investments.

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French authorities justify the lack of investments in port facilities by considering that the year 2018 does not correspond to a period of full implementation of the landing obligation.”

From a legal perspective, this statement is also not correct. Indeed EU legislation foresees that by the 1st of January 2019⁷⁸ the landing obligation needs to be fully implemented in all EU waters. However, the obligation is in force since 2015 with a phasing-in application per fisheries or per geographical area.⁷⁹ This means that for some fisheries in France the obligation is in force since 1st of January 2015 and that it should have been controllable and enforceable for these fisheries since then. Since investments both in selectivity and in port facilities take a long time to be operational, all actors involved in implementing the landing obligation should have pushed for those investments to happen long before 2019 the so-called “year of full implementation”. Waiting until 2019 to do those investments shows a complete lack of strategy.

In France, producers' organisations have supported fishers in the implementation of the landing obligation only by offering information or advice on the legal framework and on selectivity.⁸⁰ Finally, despite being highlighted as a priority in the French report,⁸¹ the control of the landing obligation is not properly implemented⁸² as identified also in our report on the control of the landing obligation in France published in 2019.⁸³ All actors involved in the implementation of the landing obligation in France have adopted a “wait-and-see” approach instead of a proactive attitude. This has prevented them from making the best use of the funds available in order to adapt as quickly as possible to these new legal requirements.⁸⁴

Our recommendation for the future EMFF:

All actors involved from EU decision makers, to national authorities promote and support investments that aim at implementing the landing obligation, which is a legal requirement under the CFP Basic Regulation.

Conclusion

Our analysis of the implementation reports of France, Ireland and Spain has allowed us to identify some good practices in the current implementation of the EMFF.

In our key recommendations for the future EMFF, we strongly encourage EU decision-makers and Member States to follow these good examples. However, we also identified worrying practices based on misguided and sometimes even irresponsible choices. **We strongly urge EU decision-makers and Member States, which are currently discussing the design of the future EMFF, to take into account our key recommendations and ensure that EU public money is spent to truly achieve the objectives of the CFP.** EU decision makers and Member States have the responsibility to spend EU public funds in a way that best serves the interests of our common marine environment, the fisheries sector, in particular small-scale fishers, and coastal communities.

This work has also allowed us to identify differences in reporting on the implementation of the EMFF. The level of details of implementation in the reports analysed vary greatly. Some interesting information is completely missing such as the use of funds for large versus small scale fishing vessels and fishers. For the sake of transparency and accountability for EU citizens, Member States and the EU institutions should increase their efforts to facilitate the access and the quality of information on how EU public funds are spent.





Endnotes

- 1 Proposal for a Regulation of the European Parliament and of the Council on the European Maritime and Fisheries Fund and repealing Regulation (EU) No508/2014, COM 2018/0210 (COD) (the future EMFF Proposal).
- 2 <http://fishsubsidy.org/EU/schemes>; Court of Auditors, Special Report No 3/93 concerning the implementation of the measures for the restructuring, modernization and adaptation of the capacities of fishing fleets in the Community, OJ C 2 , 04.1.1994, p.1; Special Report No 12/2011 "Have EU measures contributed to adapting the capacity of the fishing fleets to available fishing opportunities?" 12/12/2011.
- 3 For more details consult our briefing The Post-2020 EMFF: how to ensure that EU financial aid serves the objectives of the CFP?, (<http://www.europarl.europa.eu/cmsdata/151560/ClientEarth%20Briefing%20on%20the%20post-2020%20EMFF%20July%202018.pdf>.)
- 4 Sumaila, U. Rashid, et al. "Updated estimates and analysis of global fisheries subsidies." *Marine Policy* 109 (2019): 103695.
- 5 <https://www.un.org/sustainabledevelopment/oceans/>
- 6 https://www.wto.org/english/tratop_e/rulesneg_e/fish_e/fish_e.htm
- 7 <https://www.consilium.europa.eu/en/press/press-releases/2019/06/18/european-maritime-and-fisheriesfund-2021-2027-council-ready-to-negotiate-with-the-european-parliament/>
- 8 http://www.europarl.europa.eu/doceo/document/TA-8-2019-0343_EN.pdf
- 9 The analysis covers the choice made by national authorities' for investments directly supporting the implementation of the CFP and the sustainable development of fisheries.
- 10 Information based on access to information requests addressed to France, Ireland and Spain for 2017 and 2018. The analysis was limited to 2017 and 2018 because the implementation of the EMFF started after May 2014 and the use of funds was very low until 2017 as indicated in the 2017 reports analysed.
- 11 2018 Annual implementation report for the EMFF for Ireland (2018 AIR EMFF).
- 12 2017 Annual implementation report for the EMFF for Ireland (2017 AIR EMFF).
- 13 See the Marine Biodiversity Scheme in 2018 AIR EMFF.
- 14 Rapport Annuel de mise en oeuvre pour le FEAMP (RAMO FEAMP) 2017 p.6 et RAMO FEAMP 2018 p.5 and 6.
- 15 RAMO FEAMP 2017, p.6 and 7; RAMO FEAMP 2018, p.5 and 6.
- 16 Informe Annual de Ejecucion (IAE) FEAMP 2017, p.5.
- 17 IAE FEAMP 2018, p.5.
- 18 Article 40 of the EMFF.
- 19 RAMO FEAMP 2018, p.65.
- 20 Article 32 of the EMFF is dedicated to health and safety investments on board, Article 29 is dedicated to trainings of fishers, and Article 44 allows for investments in ports.
- 21 RAMO FEAMP 2017, p.6, 7 and 30.
- 22 RAMO FEAMP, p.6.
- 23 IAE FEAMP 2018, p.5
- 24 For further detail see ClientEarth's briefing 'The post-2020 European Maritime and Fisheries Fund: how to ensure that EU financial aid serves the objectives of the Common Fisheries Policy?', p.8.
- 25 2017 AIR EMFF, p.8.
- 26 2018 AIR EMFF, p.6, 9, 10, 84.
- 27 FAO Technical Guidelines for responsible fisheries, Nr1 Supl. 3, Fishing Operations, Best practices to improve safety at sea; <http://www.fao.org/3/a-i4740e.pdf>, p.1.
- 28 [https://europarl.europa.eu/RegData/etudes/STUD/2018/617484/IPOL_STU\(2018\)617484_EN.pdf](https://europarl.europa.eu/RegData/etudes/STUD/2018/617484/IPOL_STU(2018)617484_EN.pdf), p.14, 16, 22, 25.
- 29 Presentation of the European Commission, DG MARE, Elisa Roller on the European Maritime and Fisheries Fund, From 2014-2020 to 2021-2027 at the European Parliament, PECH Committee, 2nd of October 2019, item 6 of the agenda.
- 30 Joint declaration of Spain-France-Italy in regard to the proposal on the European Maritime and Fisheries Fund for the Period 2021-2027 https://www.parlament.gv.at/PAKT/EU/XXVI/EU/06/41/EU_64128/imfname_10900560.pdf
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- 32 RAMO FEAMP 2017, p.6.
- 33 RAMO FEAMP 2018, p.5-6.
- 34 Article 39 of the EMFF.
- 35 IAE FEAMP 2018, p.24.
- 36 IAE FEAMP 2018, p.7.
- 37 AIR EMFF2017, p.6; AIR EMFF 2018, p.6, 20 and 21.
- 38 Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006, OJL 343, 22.12.2009, p.1 (hereinafter referred to as Fisheries Control Regulation).
- 39 Council Regulation (EC) No 2017/1004 of 17 May 2017 on the establishment of a Union framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the common fisheries policy and repealing Council Regulation (EC) No 199/2008, OJL 157, 20/06.2017, p.1.
- 40 IAE FEAMP 2017, p.3; IAE FEAMP 2018, p.3; AIR EMFF 2017, p.11-13; AIR EMFF 2018 p.12-14; RAMO FEAMP 2017, p.8; RAMO FEAMP 2018, p.9-10.
- 41 See footnote 14.
- 42 Special report of the European Court of Auditors Nr8/2017, (<https://op.europa.eu/webpub/eca/specialreports/fisheries-08-2017/en/>).
- 43 ClientEarth's reports on the control of the landing obligation: in France, (<https://www.documents.clientearth.org/wp-content/uploads/library/2019-10-15-the-control-of-the-landingobligation-in-france-ce-en.pdf>); and in Spain (<https://www.documents.clientearth.org/wpcontent/uploads/library/2019-10-15-the-control-of-the-landing-obligation-in-spain-coll-en.pdf>). 44 Article 42 of the CFP Basic Regulation
- 44 Article 42 of the CFP Basic Regulation
- 45 Article 10 of the EMFF;



- 46 Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006, OJL 343, 22.12.2009, p.1 (hereinafter referred to as Fisheries Control Regulation).
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- 48 2018 Irish EMFF implementation report, page 59.
- 49 2018 Irish EMFF implementation report, page 61.
- 50 As an example see our report on the misuse and misallocation of EMFF in Denmark: Mismanagement of European Maritime and Fisheries Fund Sees Taxpayers' Money Vanish into the Wrong Pockets https://our.fish/wp-content/uploads/2019/06/OurFish_ClientEarth_EMFF_Briefing2019_low_rez.pdf.
- 51 Recommendation 4 of the European Court of Auditors report, Special report Nr 08/2017: 'in order to ensure a level playing field for operators, fully implement the point systems and ensure its consistent application in their respective territories'.
- 52 French EMFF implementation report for the year 2018, p. 66, 67, 68.
- 53 The 2018 Annual Economic Report on the EU Fishing Fleet (STECF 18-07), <https://ec.europa.eu/jrc/en/publication/eu-scientific-and-technical-research-reports/2018-annualeconomic-report-eu-fishing-fleet-stecf-18-07>.
- 54 2018 Irish Annual implementation report for the EMFF (AIR EMFF), page 81.
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- 56 Please see the following paragraph on the conditions of the EMFF;
- 57 See above footnote 48.
- 58 See The 2016 Annual Economic Report on the EU Fishing Fleet – (EWG 16-03 and EWG 16-07).
- 59 RAMO FEAMP 2018, p.6, 68 and 99.
- 60 AIR EMFF2018, p.27
- 61 AIR EMFF 2018, p.45 and 100.
- 62 IAE FEAMP 2018, p.7,
- 63 There is only one concrete example of the numbers for Asturia but probably other regions had planned to spend quite a lot of funds on Article 31 of the EMFF.
- 64 Article 31 of the EMFF.
- 65 Introduction, p.4 of this report.
- 66 RAMO FEAMP 2018, p.6.
- 67 IAE FEAMP 2018, p.6 and 7
- 68 See footnote 28.
- 69 Article 22 of the CFP Basic regulation.
- 70 Article 13, Article 31 (2)d), Article 34 (1)b), Article 41(3) and Annex IV of the EMFF regulation.
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- 74 RAMO FEAMP 2018, p.7.
- 75 RAMO EMFF 2018, p.67.
- 76 In particular Article 39 of the EMFF.
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- 78 Article 15 of the EMFF indicates that full implementation of the landing obligation should happen by 1st of January 2019.
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- 81 RAMO EMFF 2018, p.71.
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- 83 <https://www.documents.clientearth.org/wp-content/uploads/library/2019-10-15-the-control-of-the-landingobligation-in-france-ce-en.pdf>
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We are activist lawyers working at the interface of law, science and policy. Using the power of the law, we develop legal strategies and tools to address major environmental issues.

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