Commission Regulation (EC) No 1078/2008 of 3 November 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 861/2006 as regards the expenditure incurred by Member States for the collection and management of the basic fisheries data

COMMISSION REGULATION (EC) No 1078/2008

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 861/2006 of 22 May 2006 establishing Community financial measures for the implementation of the common fisheries policy and in the area of the Law of the Sea[(1)], and in particular Article 31 thereof,

Whereas:

(1) Council Regulation (EC) No 199/2008 of 25 February 2008 concerning the establishment of a Community framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the Common Fisheries Policy[(2)] establishes a basis for scientific analyses of fisheries and for providing the formulation of sound scientific advice for the implementation of the Common Fisheries Policy.

(2) The Commission is to adopt a multi-annual Community programme pursuant to Council Regulation (EC) No 199/2008 based on which the Member States should establish multi-annual national programmes for the collection, management and use of data.

(3) Article 9 of Regulation (EC) No 861/2006 provides, amongst other actions, for Community financial contribution for measures in the area of basic data collection. Moreover, Article 24 of that Regulation requires the Commission to decide each year on the annual Community contribution to those measures.

(4) In view of the principle of sound financial management, it is necessary to lay down the rules and procedures to be complied with by Member States in order to benefit from Community financial assistance for expenditure incurred in the area of data collection. It is also appropriate that the non-compliance with such rules and procedures entails the exclusion of expenditures.

(5) The annual Community contribution should be based on annual budget forecasts which should be evaluated taking into account the national programmes established by the Member States.

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EC) No 1078/2008. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(6) With a view to ensure that Community funds are allocated efficiently, the annual budget forecast should be consistent with the activities foreseen in the national programme.

(7) With a view to simplifying procedures, it is necessary to establish the rules and the format for the submission by Member States of the annual budgetary forecast in relation to the execution of the national programmes. Only costs directly related to the implementation of the national programmes, which are properly justified and actually incurred by the Member States, should be considered eligible. In this respect, it is also relevant to clarify the role and obligations of partners and sub-contractors in the implementation of the national programmes.

(8) With regard to the possibility to amend the technical aspects of the multi-annual programmes as provided for in Article 5(2) of Council Regulation (EC) No 199/2008, it is appropriate to establish the rules under which the Member States may amend adequately the funds necessary for the proper implementation of the national programmes. Member States should be allowed to reallocate funds between different cost categories if this is considered of a benefit for the implementation of the national programme.

(9) Rules should be established in order to ensure that the claims for reimbursement of expenditure are in line with the Commission Decision approving the annual Community contribution. Those rules should include the procedure for submission and approval of such claims. Where appropriate, claims which do not comply with those rules should be de-committed.

(10) It is appropriate that payments are made in two instalments, thus allowing Member States to benefit already from the Community financial contribution during the period of implementation of the programme.

(11) In view of ensuring correct use of Community funds, the Commission and the Court of Audit should be in a position to verify the compliance with the provisions provided in this Regulation and should, for that purpose, be provided with any information relevant for carrying out the audits and financial corrections as referred to in Article 28 of Regulation (EC) No 861/2006.

(12) The measures provided for in this Regulation are in accordance with the opinion of the Committee for Fisheries and Aquaculture,

HAS ADOPTED THIS REGULATION:

Article 1

Subject-matter

This Regulation establishes detailed rules for the implementation of Regulation (EC) No 861/2006 as regards the Community financial contribution for expenditure incurred by Member States for the collection and management of the basic fisheries data.

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Article 2

Submission of the annual budget forecast

1 Member States wishing to receive a financial contribution from the Community for the implementation of their multi-annual programme, as referred to in Article 4 of Regulation (EC) No 199/2008, hereinafter 'the national programme', shall submit to the Commission by 31 March of the year prior to the period of the implementation of that programme:

a an annual budget forecast for the first year of implementation of the national programme; and

b indicative annual budget forecasts for each of the following years of implementation of the national programme.

2 Member States shall submit definitive annual budget forecasts for each of the years of implementation of their national programme, following the first, where they differ from the indicative budget forecasts already submitted. Definitive annual budget forecasts shall be submitted by 31 October prior to the year of implementation concerned.

3 For the first national programme covering the period 2009-2010, the annual budget forecasts shall be submitted by 15 October 2008.

Article 3

Content of the annual budget forecast

1 The annual budget forecast shall contain the planned annual expenditure that a Member State expects to incur for the implementation of its national programme.

2 The annual budget forecast shall be presented:

a by category of expenditure as referred to in Annex I to this Regulation;

b by module as defined in the Commission Decision establishing the multi-annual Community programme on collection, management and use of data for the fisheries and aquaculture sectors; and

c where relevant, by region as defined in Article 1(a) of Commission Regulation (EC) No 665/2008[(3)].

3 Member States shall submit the annual budget forecast by electronic means and using the financial forms established and communicated to them by the Commission.

Article 4

Evaluation of the annual budget forecast

1 The Commission shall evaluate the annual budget forecasts by taking into account the national programmes approved in accordance to Article 6(3) of Regulation (EC) No 199/2008.

2 For the purpose of evaluating the annual budget forecast, the Commission may request a Member State to provide further clarification on the expenditure concerned. The Member State shall provide that clarification within 15 calendar days from the Commission's request.

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3 If the Member State fails to communicate sufficient clarification within the deadline referred to in paragraph 2, the Commission may exclude as appropriate the concerned expenditure from the respective annual budget forecast to be approved.

Article 5

Community financial contribution

The Commission shall approve the annual budget forecast and shall decide on the annual Community financial contribution to each national programme in accordance with the procedure laid down in Article 24 of Regulation (EC) No 861/2006 and on the basis of the outcome of the evaluation of the annual budget forecasts as referred to in Article 4.

Article 6

Amendments to the approved annual budget forecast

1 Member States shall be authorised to transfer the amounts set out in the annual budget forecast approved in accordance with Article 5 between modules and cost categories within the same region only, provided that:

a the amounts transferred do not exceed EUR 50 000 or 10 % of the approved total budget for the region where the amount of that budget is less than EUR 500 000;

b they inform the Commission upon the occurrence of the need for transfer.

2 Any other amendments of the annual budget forecast approved in accordance with Article 5 shall be duly justified and shall be approved by the Commission before the expenditure is incurred.

Article 7

Eligible expenditure

1 In order to be eligible for Community financial contribution, expenditure shall:

a be actually incurred by the Member State;

b concern an action foreseen in the national programme;

c be indicated in the annual budget forecast;

d fall in one of the categories listed in Annex I;

e concern an action executed in compliance with the conditions laid down in Regulation (EC) No 199/2008 and its implementing provisions;

f be identifiable and verifiable, in particular being recorded in the accounting records of the Member State and their partners;

g be determined according to the applicable accounting standards and comply with the requirements of national legislation;

h be reasonable, justified, and comply with the requirements of sound financial management, in particular regarding economy and efficiency;

i be incurred during the implementation period of the action as foreseen in the national programme.

2 Eligible expenditure shall be related to:

a the following data collection activities:

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— collection of data on the sampling sites as referred to in Article 10 of Regulation (EC) No 199/2008 from direct sampling or interviews and queries,
— at-sea-monitoring of commercial and recreational fisheries as referred to in Article 11 of Regulation (EC) No 199/2008,
— research surveys at sea as referred to in Article 12 of Regulation (EC) No 199/2008;

b the following data management activities, as provided for in the multi-annual Community programme referred to in Article 3 of Regulation (EC) No 199/2008:
— database and web site development,
— data input (storage),
— data quality control and validation,
— data processing from primary data into detailed or aggregated data,
— transformation process of the primary socioeconomic data into metadata;

c the following data use activities as provided for in the multi-annual Community programme referred to in Article 3 of Regulation (EC) No 199/2008:
— production of sets of data and their uses to support scientific analysis as a basis for advice to fisheries management,
— biological parameter estimates (age, weight, sex, maturity and fecundity),
— preparation of sets of data for stock assessments, bio-economic modelling and corresponding scientific analysis.

Article 8

Non-eligible expenditure

The following expenditure shall not be eligible for Community financial contribution:

(a) profit margins, provisions and bad debts;

(b) interest owed and bank charges;

(c) average labour costs;

(d) indirect costs such as: buildings and sites, administration, support staff, office supplies, infrastructure, running and maintenance costs, such as telecommunication costs, goods and services;

(e) equipment which is not used for data collection and management purposes, such as scanners, printers, mobile phones, walkie-talkies, videos and cameras;

(f) purchase of vehicles;

(g) distribution, marketing and advertising costs of promoting products and commercial activities;

(h) entertainment expenses, other than those regarded by the Commission as strictly necessary for carrying out the national programme;

(i) expenditure on luxuries and publicity;

(j) all expenditure on other programmes/projects financed by a third party;

(k) all expenditure on protecting the results of the work carried out under the national programme;