

## European Maritime and Fisheries Fund 2021-2027

Impact assessment (SWD(2018) 295) accompanying a Commission proposal for a regulation of the European Parliament and of the Council on the European Maritime and Fisheries Fund and repealing Regulation (EU) No 508/2014 of the European Parliament and of the Council COM(2018) 390

*This note is one of a series of brief initial appraisals of European Commission impact assessments (IA) accompanying the multiannual financial framework (MFF) proposals, tailored to reflect the specificities of the MFF package and the corresponding IAs.<sup>1</sup> It provides an initial analysis of the strengths and weaknesses of the European Commission's [impact assessment](#) (IA) accompanying the above-mentioned [proposal](#), submitted on 12 June 2018 and referred to the Committee on Fisheries (PECH).*

### Political and legal context; objectives

With a budget of €6 140 million in current prices<sup>2</sup> for the 2021-2027 period, the renewed European Maritime and Fisheries Fund (EMFF) would continue to support the environmental, economic, social and employment objectives of the [common fisheries policy](#) (CFP), as well as maritime policy. The proposal includes increased international commitments in the field of ocean governance, especially in the context of the United Nations' [2030 Agenda for Sustainable Development](#), and aims for stronger synergies with other EU policies, such as on food security, the sustainable blue economy and support for the EU's climate objectives.<sup>3</sup> The EMFF is part of the European structural and investment funds (ESIF) framework, covered by the [Common Provisions Regulation](#) (CPR) (IA, p. 8).

Implementation of the current (2014-2020) [EMFF Regulation](#) was delayed, being adopted only in May 2014 (but with retroactive effect from 1 January 2014, IA, p. 7).<sup>4</sup> According to the Commission's [open data platform](#), by the end of 2017 only 30 % of the total (EU and Member States) 2014- 2020 allocation had been decided, and 9 % had been reported as spent. The IA accompanying the new EMFF proposal is based on the [ex-post evaluation](#) of the 2007-2013 European Fisheries Fund (EFF). A number of challenges were identified, including overcapacity<sup>5</sup> leading to overfishing; insufficient interoperability of information systems for fisheries control and scientific data collection; difficulties faced by small-scale coastal fisheries<sup>6</sup> at regional level; the pressure to consistently counteract illegal, unreported and unregulated fishing within the EU and internationally; the need for more innovative and environmentally sustainable solutions for aquaculture, marketing and processing; the need for improved support to initiatives related to investing and innovating in the blue economy; and the need to strengthen community-led local development (IA, pp. 11-20).

The IA divides the objectives for fisheries and maritime policies post-2020 in four areas, and defines them at two levels: policy objectives common to all ESIFs;<sup>7</sup> and fund-specific general, specific and cross-cutting objectives (IA, p. 21). The **general objectives** of the EMFF 2021-2027 programme as described in the IA refer to the four main areas of activity of the EMFF, as follows:

1. **Fisheries:** Fostering sustainable fisheries and conservation of marine biological resources.
2. **For aquaculture, marketing and processing:** Contributing to food security in the Union through competitive and sustainable aquaculture and markets.
3. **Blue economy:** Enabling growth of the sustainable blue economy and fostering prosperous coastal communities.
4. **Emerging policy issues:** Strengthening international ocean governance and enabling safe, secure, clean and sustainably managed oceans. (IA, p. 13).

For each general objective, the IA defines detailed, specific objectives (IA, pp. 21-27) based on the conclusions of the ex-post evaluation and stakeholder (see the section on stakeholder consultation below). The specific objectives are explained in more detail in a table providing a description of the 'features to be retained for the future fisheries and maritime policies of the Union in view of identified challenges', as the IA puts it (p. 23). It is not quite clear if there has been an attempt to describe any operational objectives, as required by [tool #16](#) of the [better regulation guidelines](#).

## Programme structure and priorities; delivery mechanisms of the intended funding

The IA limits itself to presenting the new actions planned for the 2021-2027 period and to comparing them to the current programme's actions (p. 27), rather than discussing alternative solutions or courses of action to choose from, as is normally required of an IA. Some of the new actions include the obligation for all Member States to prepare an action plan with specific milestones and targets relating to fund-specific indicators.<sup>8</sup> Furthermore, the aid intensity for delivering on CFP objectives (i.e., landing obligation, gear selectivity) is set at 75 %<sup>9</sup> compared to 50 % under the current programming period; there is enhanced support for international oceans governance, including coastguard cooperation; as well as improved and more streamlined data collection<sup>10</sup> (IA, p. 27).

Regarding sustainable fisheries and conservation, the 'preferred model for the future is a more targeted system compared to the current one' (IA, p. 23). No more details are given on what this system actually includes. Moreover, the IA explains that for the outermost regions to continue to be compensated by the EMFF, 'it will be necessary to assess how the cost-effectiveness of the regime could be improved' (IA, p. 23). However, the IA does not make such a cost-effectiveness analysis, nor does it provide information on possible plans to perform such an analysis in a different format.

The IA contains a chapter on delivery mechanisms, albeit rather chaotic and general. The new programme provides for the funding to be conditional upon Member States' and operators' compliance with the CFP objectives (IA, p. 31). 'The basic principle would be that anything that is not explicitly forbidden in the regulation would be allowed.' (IA, p. 29). No details are given on the financial tools (loans, financial instruments, subsidies). Contrary to what is normally required, the IA does not provide an analysis of the environmental, economic, social or employment impacts.

### Budgetary or public finance implications

The financial envelope for the programme is set at €6 140 million in current prices. The amount of €5 311 million is allocated to support under shared management (implementation by Member States through EMFF programmes based on national strategies approved by the Commission) and €829 million to support under direct management (implementation by the Commission alone) (explanatory memorandum of the proposal, p. 8).

### SME test / Competitiveness

The IA provides a brief assessment of impacts on SMEs.<sup>11</sup> For example, the results of a survey on simplification revealed that SMEs are required to prepare the most extensive documentation for accessing the funds (volume of project applications, average waiting time for project appraisal and for reimbursement of costs) (IA, pp. 105- 106). Regarding the processing sector, which represents thousands of jobs, the IA concludes that future support should be primarily provided to all operators (including SMEs) only through financial instruments rather than direct grants (IA, p. 121). The proposal 'also grants a preferential treatment to small beneficiaries with a higher aid intensity rate and specific forms of support for beneficiaries from small-scale coastal fisheries' (explanatory memorandum of the proposal, p. 5). No further discussion on competitiveness is provided.

### Relations with third countries

The new programme envisages more support for international ocean governance, and the IA includes a list of 50 ongoing and planned actions in this regard (IA, p. 26, pp. 88-95). The IA states that the 2021-2027 EMFF will continue to support international and regional fisheries management organisations (RFMOs) and regional seas conventions.

## Simplification and other regulatory implications

Simplification is at the base of the new proposal, as it 'aims to alleviate the regulatory burdens and simplify the delivery of the fund' (explanatory memorandum of the proposal, p. 5).

## Subsidiarity / proportionality

The legal basis for the Commission's proposal are Articles 3, 4,<sup>12</sup> 42, 43(2), 91(1), 100(2), 173(3), 175, 188, 192(1), 194(2), 195(2) and 349 of the [Treaty on the Functioning of the European Union](#) (TFEU) (proposal, p. 2 and IA, p. 20). Twelve national parliaments scrutinised the proposal, and none issued a reasoned opinion on subsidiarity grounds. The deadline for submission was 13 September, 2018.

## Quality of data, research and analysis

The analysis is mainly based on the ex-post evaluation of the EFF for the 2007-2013 programming period, performed by [external contractors](#) (IA, Annex 3, p. 53). Overall, the IA's persuasiveness is seriously affected by how chaotically and imprecisely information is provided, for example, no references are given to parallel binding legislation, such as the Common Provisions Regulation or the [InvestEU Regulation](#), no details explained about the implementation delay of the current EMFF, the glossary is limited and many acronyms used in the IA are not explained.

The IA claims that the CFP is an exclusive EU competence (IA, p. 21), whereas according to Article 3 TFEU, conservation of marine biological resources is the only activity that falls under the EU's exclusive competence. The IA provides a list of referenced sources, including European Parliament studies that have been used in the process of its drafting (pp. 40-44), but it is not apparent from the analysis how these have fed into the IA report. Furthermore, the IA only describes the proposed measures, but no alternative courses of action for comparison. Finally it does not contain an analysis of impacts, despite this being a standard approach used in IAs.

## Stakeholder consultation

The Commission conducted a targeted stakeholder consultation on 12-13 October 2017 – the Tallinn conference<sup>13</sup> – for the post-2020 period. Stakeholders targeted included public authorities, industry representatives, NGOs, fishing associations and organisations (albeit 14 %), and academia. The opinions expressed in the consultation appear to have been taken into account in the drafting of the IA and the proposal, especially regarding the need for a simplified legal framework and a reduced administrative burden for beneficiaries and administrations. From 24 February to 18 May 2016, an [open public consultation](#) was held on the ex-post evaluation of the 2007-2013 EFF and the possible establishment of a post-2020 fund. The consultation outcome is not available on the Commission's website, but the main findings of the ex-post evaluation are included in Annex 3 of the IA.

## Monitoring and evaluation

Monitoring indicators are generally described in the IA in a dedicated chapter (IA, pp. 31-35). Member States would draw up their operational programmes in relation to the key result indicators at ESIF level and at fund level. However, the IA gives no details as to how these indicators would be developed. It says that the same groups of indicators that are applied to the EMFF 2014-2020 would be used, focusing on evolution and simplification (IA, p. 33). The proposal explains that 'the Commission shall be empowered to adopt delegated acts ... to review or complement the indicators' (proposal, Article 37, p. 35). Member States are to submit annual performance reports to the Commission for the years falling within the 2023-2029 period (proposal, Article 38, p. 36). The Commission would then prepare an ex-post evaluation based on these reports (IA, p. 34, Article 48 of the proposal).

## Commission Regulatory Scrutiny Board

The Regulatory Scrutiny Board (RSB) gave a [positive opinion](#) on the draft IA on 13 April 2018. Annex 1 of the IA includes a section on the RSB recommendations addressed in the report's final version (pp. 36-38), without giving an account of how this was actually done.

## Coherence between the Commission's legislative proposal and IA

The proposal's provisions generally appear to follow the objectives described in the IA.

### Conclusions

The IA essentially builds on the recommendations made in the ex-post evaluation on the implementation of the 2007-2013 EFF. The views expressed during the Tallinn conference are reflected throughout the IA and the proposal. The persuasiveness and quality of the impact assessment suffer from several shortcomings. For instance, the description of the delivery mechanisms and monitoring and evaluation lacks clarity and focus. No alternative options are offered and there is no analysis of the environmental, economic, and social or employment impacts. While the IA does set out the rationale for the new instrument and explain the choices made in its design to some extent, it would appear that the level of analysis conducted and the extent of the departure from the standard methodology and format of impact assessments (set in the Commission's better regulation guidelines) weaken its potential to inform decision-making.

### ENDNOTES

<sup>1</sup> The almost parallel adoption of the spending programmes and MFF proposals had an impact on the IA process and resulted in simplified IAs, with their format and scope differing from the standard IAs as defined by the Commission's better regulation guidelines (see also [toolbox 10 – financial programmes and instruments](#)).

<sup>2</sup> The explanatory memorandum of the proposal specifies that UK withdrawal from the EU has been taken into account (p. 1).

<sup>3</sup> For more details on the background of the proposal, see F. Scholaert, [European Maritime and Fisheries Fund 2021-2027](#), legislative briefing, EPRS, European Parliament, January 2019.

<sup>4</sup> The IA says that '[A]t this stage, no evaluations have been completed of the EMFF at the EU or member state level' (IA, p. 9), without providing a time reference.

<sup>5</sup> The IA does not explain what it means by overcapacity; the context suggests it is the overcapacity of fishing fleets.

<sup>6</sup> Small-scale fishing means vessels below 12 metres. They represent nearly 75 % of all fishing vessels in the EU and account for nearly half of all employment in the fisheries sector (explanatory memorandum of the proposal, p. 11).

<sup>7</sup> The two ESIF policy objectives are a low-carbon and greener Europe, and a Europe closer to its citizens.

<sup>8</sup> Article 107 of the [EMFF Regulation](#) requires the establishment of a [common monitoring and evaluation system \(CMES\)](#) for the operations co-financed by the EMFF under shared management. (IA, p. 31).

<sup>9</sup> The IA does not explain if 75 % is the maximum rate or give the minimum rate (set at 20 % in the current programming period).

<sup>10</sup> For example, when collecting fisheries data, data for the European Maritime observation and data network (EMODNET) and the [Marine Strategy Framework Directive](#) (MSFD) could also be collected.

<sup>11</sup> Without providing information on the share of the SMEs concerned by the various policies under the EMFF.

<sup>12</sup> Articles 3 (exclusive competence in the conservation of marine biological resources) and 4 (other aspects of fisheries and maritime policy) are mentioned in the IA, but not listed in the Commission's proposal.

<sup>13</sup> [Beyond 2020: Supporting Europe's Coastal Communities](#), European Commission, October 2017.

This briefing, prepared for the Committee on Fisheries (PECH), analyses whether the principal criteria laid down in the Commission's own Better Regulation Guidelines, as well as additional factors identified by the Parliament in its Impact Assessment Handbook, appear to be met by the IA. It does not attempt to deal with the substance of the proposal.

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