

**REGULATORY & LEGISLATIVE
FRAMEWORKS FOR LICENSING NEW
AQUACULTURE FARMS (ONSHORE &
OFFSHORE) IN THE ATLANTIC AREA
REGION (PORTUGUESE REGION)**

PROJECT IDENTIFICATION:
EAPA_1059/2018 – ACCESS2SEA

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INTRODUCTION

As part of the programme of work included in Work Package Six of the Access2Sea project, Action Two involved Project Partners undertaking to characterise the project territory's regulatory and legislative frameworks for licensing new aquaculture farms in the Atlantic Area (onshore and offshore). The objective of this Action is to facilitate data comparison across the participating regions and to highlight best case models in regulatory and legislative frameworks.

Project Partners from the Portuguese region in the Access2Sea project collected the following information relating to the regulatory and legislative environment in their own region:

1. Policy Context for Aquaculture Regulation
2. Analysis of Socio-Economic Impact on Coastal Communities
3. Legislation and Regulations
4. Regulatory Agencies and their roles
5. Licensing Application Process
6. Identification of Best Practices in regulation and licensing
7. Related Scientific Publications

Portuguese Region

Partner: University of Algarve – UAlg

Country: Portugal

1) Policy Context for Aquaculture Regulation in Portugal

The European Commission formally approved the MAR 2020 Operational Program by Implementing Decision of 30.11.2015 approving the Operational Program "European Maritime and Fisheries Fund - Operational Program of Portugal" to support the European Maritime and Fisheries Fund in Portugal. MAR 2020 aims to implement in Portugal the support measures under the European Maritime and Fisheries Fund (EMFF) and its Strategic Priorities:

- Promote competitiveness based on innovation and knowledge.
- Ensure the social and environmental economic sustainability of the fisheries and aquaculture sector, contribute to the good environmental status of the marine environment and promote the Integrated Maritime Policy.
- Contribute to the development of coastal zones, increase employment and territorial cohesion as well as increase the capacity and skills of professionals in the sector.

The new Operational Program includes new priority areas of intervention, which were previously managed directly by the European Commission, such as the Data Collection Program, Fisheries Control and Surveillance, the Common Organization of Fishery Markets and Aquaculture, the Compensation Plan for the Outermost Regions and, under shared management, the Integrated Maritime Policy.

The mission structure for MAR 2020, in addition to its capabilities under the European Maritime and Fisheries Fund, will ensure proper monitoring of the Program, ensuring control and monitoring of operations, preventing and detecting irregularities, promoting reduction intervention deadlines, response and giving greater reliability to the results obtained.

MAR 2020 PRIORITY 2 - PROMOTING ENVIRONMENTALLY SUSTAINABLE, RESOURCE-EFFICIENT, INNOVATIVE, COMPETITIVE AND KNOWLEDGE-BASED AQUACULTURE

- Measure 1 - Sustainable development of aquaculture
- Measure 2 - Development of aquaculture sites
- Measure 3 - Organic aquaculture and environmental services
- Measure 4 - Public Health Measures
- Measure 5 - Promotion of animal health and welfare

- Measure 6 - Insurance for aquaculture stocks
- Measure 7 - Promotion of human capital and networking

2) Analysis of Socio-Economic Impact on Coastal Communities in Portugal

Portugal has a long-standing tradition and history in fisheries. Despite its limited contribution to the gross domestic product (GDP), the Portuguese fisheries' sector represents a primary sector of significant socio-economic importance, particularly in coastal areas. Aquaculture in Portugal does not represent more than 6 % of the catches; however, it is growing rapidly and could become an important activity for the fisheries sector. At the same time, it offers other socio-economic benefits like employment opportunities and contributes to local coastal economies.

In 2013, the aquaculture sector produced 10 300 tonnes, corresponding to EUR 53.7 million. In the same year, Portuguese aquaculture comprised 1 443 farms employing 2 572 workers, or 2 083 FTEs (full time equivalents).

Portugal is by far the main fish consumer inside the EU 27 with 56.9 kg per capita/year, while the EU average is 21.4 kg/ head/year. However, Portuguese consumers are skeptical about aquaculture. This might be related with unconstructive messages, commonly spread among consumers, which result in the preconceived idea that seafood from aquaculture is generally of a worse quality compared to wild fisheries. Vast improvements in the public image of the aquaculture sector need to be undertaken. Stakeholders have the huge challenge of clarifying consumers about the positive aspects of aquaculture products and in the demystification of several erroneous ideas.

Employment in the aquaculture industry in Portugal for 2011, represented 2.316 direct jobs where 18% were women, and with only 5 companies employing more than 10 people. Most of the workers have low qualifications and working within a family business, but there are also a significant number of people with higher education (university level). The national production of aquaculture for 2012 only contributed 5.4 % (10.317t) to the total seafood landings, and therefore cannot yet be considered an alternative to the traditional fisheries sector

The Portuguese aquaculture industry produces marine finfish species and shellfish. The former far exceeds the latter in size — marine fish production accounted for more than 57 % of the total sales value in 2013. The main cultured marine species are sea bream, sea bass and turbot. In 2013, Portuguese aquaculture production totalled 10 300 tonnes and EUR 58.8 million in value.

It is estimated that the blue economy represents 3 % of the Portuguese GDP.

The total production of aquaculture in the Algarve region in 2013 represented a total of 4.403t with an estimated value of 27M euros, which represented an increase compared with 2012, with a production of 3.509t and a value of 24,1M euros. The bivalve aquaculture is still the most important aquaculture type in the Algarve; fish produced in ponds represent only 9, 2%. Most of the bivalve aquaculture sites are located within the Ria Formosa lagoon, where the extensive aquaculture contributes to 88% of the total production. The good clam (*Ruditapes decussatus*) is the main species being produced, but mussel production doubled from 2012 to 2013 with a total 1 547t, mostly due to the recent offshore installations.

3) Legislation and Regulations in Portugal

- Ordinance No. 280/2017, of 19 September, establishes the form of calculation, the amount, the exemptions, the form of division and delivery of the Aquatic Fee (TAQ) collection product.
- Ordinance No. 279/2017, of 19 September, sets out the instructional elements that must be presented by the interested party in the procedures provided for in Article 8 (2), Article 9 (2), Article 12 (1) and Article 13 (2) of Decree-Law 40/2017 of 4 April, which defines the legal framework for the establishment and operation of crop establishments in marine waters, including transitional waters, and in inland waters.
- Ordinance No. 276/2017, of 18 September, establishes the regime and the amount of the guarantee to ensure, at the time of termination of the Aquaculture Activity Title (TAA), the good environmental status of the marine environment and water bodies. and removal of works and movable structures within the area or volume
- Decree-Law No. 40/2017, of 4 April, approves the legal regime for the establishment and operation of marine culture establishments, including transitional waters, and inland waters, under the use of the legislative authorization granted by Law No. 37/2016 of December 15. This Decree-Law applies to marine and inland waters cultivation establishments and related establishments located on private property, State private domain, State public domain and local authorities, including the public domain. water. The provisions of this Decree-Law shall not apply to State aquaculture posts, aquaculture units or holding captive aquaculture species for self-consumption, ornamental, didactic, technical or scientific purposes only.
- Decree-Law No. 152/2009 of 2 June - Transposes Council Directive 2006/88 / EC of 24 October on zoosanitary requirements for aquaculture animals and derived products.
- Regulatory Decree No. 9/2008 of 18 March - Defines the fundamental rules for the establishment of offshore aquaculture production areas (APA).

4) Regulatory Agencies and their roles in Portugal

The establishment of an aquaculture farm implies obtaining two licenses, one for the use of water resources (bank, bed and water) and another for the exercise of the activity.

The entities responsible for licensing the use of water resources are the Portuguese Environment Agency I.P. (APA), the Port Administrations and Docapesca, S.A., in the areas under their jurisdiction. The licensing of the activity is the responsibility of the Directorate-General for Natural Resources, Safety and Maritime Services (DGRM) for marine and brackish waters and the Institute for Nature Conservation and Forests (ICNF) for inland waters, without prejudice to any necessary previous studies or opinions.

In the Autonomous Regions (Madeira and Azores), licensing entities are services of the Regional Environment and Fisheries Administration under the respective Regional Government.

5) Licensing Application Process in Portugal

The installation process of an aquaculture establishment begins with the application for the allocation of the water use right which must, among other things, indicate:

- The area of water domain (public or private) to occupy;
- Estimated volumes of water to be used;
- The conditions and characteristics of rejections;
- Details of the specific location of the biogenetic crop establishment to be installed.

The application is publicized and, if other interested parties arise, a tender procedure will be initiated for the use of public water domain areas.

After the development of the tender procedure or in its absence, the licensing of the use of water resources is made by the Portuguese Environment Agency I.P. (APA I.P.), the Port Administrations and Docapesca, I.P., administrators of the marine public domain.

For open sea aquaculture production areas (APA) set up by Regulatory Decree No 9/2008, a single title shall be issued for the use of and the establishment of establishments, which is already an advance in the simplification of licensing.

This scheme defines the conditions for the establishment of open sea farm establishments in predefined areas, delimiting the use of common resources, security constraints and monitoring of environmental parameters. The allocation of the lots constituting these aquaculture production areas is made by public tender.

The authorizations for the use of water resources issued up to 2007 had an average validity period of 10 years. From 2007, it was possible to grant a private use title for the establishment of aquaculture establishments in marine waters through the conclusion of a concession contract of maximum 75 years. This deadline is set taking into account the nature and scale of the associated investments, as well as their economic and environmental relevance.

The installation authorization process may last from 4 to 6 months and is granted after an inspection involving all the competent authorities:

- DGRM;
- ICNF for coastal water domain areas that are classified as protected areas;
- BB I.P. or another of the administrators of the maritime public domain;
- Portuguese Institute of Sea and Atmosphere (IPMA);
- Town hall;
- Captain of Porto (if the establishment is located in an area under its jurisdiction);
- General Directorate of Health (DGS);
- General Directorate of Food and Veterinary (DGAV).

The exploration license, which has the same duration as the license for private use of public domain areas or renewable for 15 years, in the case of establishments located on private land, is granted by DGRM after a survey of the establishment, in which it is accompanied by IPMA and DGAV and ICNF in the areas under its jurisdiction.

6) Best practice in regulation and licensing in Portugal

Given the administrative complexity and the number of entities involved, it is intended to reduce and simplify the administrative procedures for obtaining the necessary licenses for the establishment of aquaculture establishments and, therefore, to ensure a timely decision for the investor, reducing the degree of investment uncertainty.

The simplification of the administrative processes, combined with the planning and zoning of places destined for the activity, are indispensable conditions to speed up the whole process, eliminating some of the constraints to the development of this productive sector.

To achieve this goal, it is essential to create the necessary conditions for licensing processes to become more agile. These conditions entail well-informed procedures by developers and the reduction and simplification of the various existing procedures, so that the whole process of setting up an aquaculture establishment is efficient, giving entrepreneurs a quick response to market stimuli.

7) References:

Plano Estratégico para a Aquicultura Portuguesa 2014 -2020. Direção Geral de Recursos Naturais, Segurança e Serviços Marítimos (DGRM). Ministério da Agricultura e do Mar.



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