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# Presentation on labour conditions of Seafarers

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# Equality and seafarers

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# Four questions

- Do national rules on seafarers pay have a nationality condition?
- Do national rules on seafarers pay have a residence condition?
- Do national rules discriminate on grounds of nationality/residence in respect of working conditions?
- Are there any reported cases?

Basic answer is NO

	Do national rules on seafarers pay have nationality condition?	Do national rules on seafarers pay have a residence condition?	Do national rules discriminate on grounds of nationality in respect of working conditions?	Are there any reported cases?
Austria	No	No	No	None mentioned
Belgium	No	No	No	None mentioned
Bulgaria	No	No	No	No
Cyprus	No	No	No	None
Czech Republic	No	No	No	No
Denmark	No	No	No	Xx
Estonia	No	No	No	None mentioned
Finland	No	No	No	No
France	No	No	No	No
Germany	No	No	No	Yes
Greece	Yes	No	Yes	None mentioned
Hungary	No	No	No	None mentioned
Ireland	No	No	No	Yes
Italy	No	No	No	Yes
Latvia	No	No	No	None mentioned
Lithuania	No	No	No	None
Luxemburg	No	no	no	No
Malta	No	No	No	None mentioned
The Netherlands	No (except captains)	no	No	Yes
Poland	No	No	No	No
Portugal	No	No	No	None mentioned
Romania	No	no	no	No
Slovakia	Yes	No	Yes	No
Slovenia	No	no	no	None mentioned
Spain	No	No	No	No
Sweden	No	No	No	Yes
UK	No	[yes]	No	Yes

# Context

- Some MS provide seafarers to vessels of other MS (eg Latvia, Lithuania).
- Other countries are net recipients of foreign seafarers.
  - Malta's seafarer certification unit has issued circa 42,000 flag state endorsements; Malta has only 119 certified seafarers (85 officers; 34 ratings).
- Some states are landlocked – but still have legislation

Qu. 1 Do national rules on seafarers pay have a nationality condition?

# General position

- Majority of Member States the answer is no
- Much as a result of changes to legislation prompted by EU law
- Most recent changes have been to UK law which, until August 2011, allowed discrimination on the grounds of nationality

# BUT.....

- Ships over 1,500 GRT registered under the Greek flag are deemed foreign capital. Instruments of registration may provide for derogations from national law including collective agreements in respect of foreign seafarers
- Discrimination in the Netherlands in respect of captain's pay
- Discrimination in Slovakia – foreign nationals covered by labour contract and not labour code



# Position of TCNs

- Clear policy decision of a number of states to allow pay discrimination against non-EU nationals (eg The Netherlands, Italy and the UK)
- Cf other MS (eg Sweden) which apply the general equal treatment principle even to TCNs.

Qu. 2 Do national rules on seafarers' pay have a residence condition?

# General position

- For most MS the position is no
- More complicated in UK: The relevant Regulations apply the principle of equality in Part V (work) of the Equality Act 2010 to three situations or scenarios:
  - UK ships/hovercraft wholly or partly in UK waters adjacent to GB.
  - EEA ships/hovercraft but only when they are in UK waters adjacent to GB
  - UK ships/hovercraft wholly outside GB waters

Qu. 3 Do national rules discriminate on grounds of nationality/residence in respect of working conditions?

# General position

- Generally no
- But
  - Some evidence of indirect discrimination (eg Sweden and travelling to home benefits)
  - Lithuania: direct discrimination in respect of trade union membership of seamen's union (but not in respect of general trade union membership)

## Qu. 4 Any relevant case law

- little or no case law which is of direct relevance

Questions not asked by the  
Commission but frequently  
discussed

# Discrimination against sea captains



# Influence of EU law

- Number of MS recently amended their legislation to bring it into line with CJEU case law (eg Germany, Belgium, Italy)
- Denmark also recently amended its law but retains the possibility in exceptional circumstances to retain Danish captain

# But indirect discrimination remains

- Language requirements (eg Czech republic, France, Greece, Ireland (particularly demanding) and Lithuania)
- Knowledge of national maritime law (France, Czech Republic and Poland)

Discrimination against seafarers

# Similar pattern

- Generally direct discrimination removed
  - BUT quota systems (Bulgaria and Italy)
- But indirect discrimination
  - Requirements as to language remain (eg France, Lithuania, Bulgaria, Greece)
  - Lithuania imposes a residence requirement
  - Registration requirements (Belgium prioritises those with Belgian diplomas)

Other matters raised

# Other discriminatory rules

- Greece
  - per capita levy imposed on ships flying the flag of third countries operating cruises to and from Greek ports.
  - Amount of levy reduced by 20% if the number of Greek (but not EEA) seamen higher than 1% of total crew.

# Factual matters

- Slovenia: main shipping company operates 20 vessels on flags of convenience ships out of Liberia
- Ireland
  - Evidence of Eastern Europeans and TCNs being employed illegally on Irish vessels
  - Reflagging of vessels in Cyprus by Irish Ferries
  - No ferry company is flagged in Ireland

# Particular issues for sending countries

- Lithuania: their seafarers working on EEA ships report discrimination in fact on grounds of pay
- Latvia:
  - very small fleet of Latvian flagged vessels but 12,000 registered Latvian seafarers, about 3,000 employed on Norwegian ships of whom only 20 benefitted from equal treatment under the national register
  - Majority on international register and after 2004 an agreement was made between Latvia and Norway that these seafarers be covered by Latvian social security



# Comparator

- UK
  - Complexity of employment relationships; different seafarers employed by different legal entities