

Training and social security schemes for fishers

State of play and perspectives in the EU



Fisheries



RESEARCH FOR PECH COMMITTEE

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Abstract

This study presents the current state of play of the mutual recognition of certificates of competency of EU fishers and the functioning of the social security schemes that cover them. Based on the analysis of these topics, the study discusses the impact of the current situation on the mobility of fishers, on the fishing sector's working risks and security and ultimately on the attractiveness of the fishing sector to the EU workforce.

This document was requested by the European Parliament's Committee on Fisheries.

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CONTENTS

LIST OF ABBREVIATIONS	5
LIST OF BOXES	7
LIST OF FIGURES	7
LIST OF TABLES	7
EXECUTIVE SUMMARY	9
1. BACKGROUND	12
1.1. Introduction	13
1.1.1. Standardised training and certification to ensure safety at sea	13
1.1.2. The IMO STCW-F Convention and the EU	14
1.1.3. Social security of fishers	16
1.1.4. The role of the social partners in sea fisheries	16
1.2. Study aim and objectives	17
1.3. Methodology	18
2. MUTUAL RECOGNITION OF FISHERS' CERTIFICATES OF COMPETENCY	20
2.1. Legal framework for the certification and training of fishers	21
2.1.1. International conventions and guidelines	21
2.1.2. EU legislation	27
2.1.3. Different pathways for STCW-F implementation: the social partners and the European Commission	31
2.2. EU framework for the recognition of professional qualifications	33
2.2.1. Directive 2005/36/EC and its application to the fishing sector	33
2.2.2. Recognition of professional qualifications: Directive 2005/36/EC	35
2.2.3. Recognition of professional qualifications by the host Member State	38
2.3. Mutual recognition of fishers' certificates: analysis of the current state of play	39
2.3.1. The EU Regulated Professions Database: scope and analysed elements	39
2.3.2. Regulated professions in the EU fishing sector	41
2.3.3. Classification of professional qualifications in the EU fishing sector	45
2.3.4. Current state of play: decisions on establishment and temporary mobility	56
2.3.5. Update of the Bénodet report	64
2.4. Ratification of the STCW-F Convention and perspectives for the EU	68
3. SOCIAL SECURITY SCHEMES FOR FISHERS	70
3.1. Social security in the EU fishing sector	70
3.1.1. Social security: terminology and trends	71
3.1.2. Employment in the EU fishing sector	75

3.1.3. Employment relationships in the EU fisheries workforce	77
3.2. The international and EU legal framework for social security	83
3.2.1. Social protection: international and EU standards	83
3.2.2. The international framework for social protection in the fishing sector	86
3.2.3. Role of the EU in the implementation of international rules for social protection and for social protection of fishers	88
3.3. Social security for fishers by EU Member State: mapping the landscape	93
3.3.1. Fishers in standard employment relationships	93
3.3.2. Fishers in non-standard employment relationships (self-employed and unsalaried)	102
3.4. Analysis of the state of play of EU fishers' social security	109
3.4.1. Best practices	113
4. CONCLUSIONS AND RECOMMENDATIONS	114
4.1. Conclusions	114
4.2. Recommendations	116
REFERENCES	118
ANNEXES	122

LIST OF ABBREVIATIONS

CFP	Common fisheries policy
COGECA	General Confederation of Agricultural Cooperatives in the European Union
DG MARE	Directorate-General for Maritime Affairs and Fisheries
DWF	Distant water fleet
EC	European Commission
EMFAF	European Maritime, Fisheries and Aquaculture Fund
EMSA	European Maritime Safety Agency
ESSPROS	European system of integrated social protection statistics
ETF	European Transport Workers' Federation
ETS	European Treaty Series
EU	European Union
Europêche	Association of national organisations of fishing enterprises in the European Union
FAO	Food and Agriculture Organisation of the United Nations
GDP	Gross domestic Product
GMDSS	Global Maritime Distress and Safety System
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labour Organization
IMO	International Maritime Organization
ISM	Instituto Social de la Marina
LSF	Large-scale fisheries
MISSOC	Mutual Information System on Social Protection (MISSOC)

SER	Standard employment relationship
SOLAS	International Convention for the Safety of Life at Sea
SSF	Small-scale fisheries
SSDC-F	Sectoral Social Dialogue Committee – Sea Fisheries
STCW	International Convention on Standards of Training, Certification and Watchkeeping for Seafarers
STCW-F	International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel
STECF	Scientific, Technical and Economic Committee for Fisheries
TPS	Temporary provision of services
UDHR	Universal Declaration of Human Rights

LIST OF BOXES

Box 1: Article 7 of Directive 2005/36/EC.	37
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LIST OF FIGURES

Figure 1: Nationality of people employed in the EU fishing fleet by Member State.	41
Figure 2: Qualification levels for access to fishing professions in the studied Member States.	42
Figure 3: Schematic representation for distinguishing certificate, function, and field of application, as used in the Bénodet report.	45
Figure 4: Type of regulation for each regulated fishing profession by Member State.	57
Figure 5: Mobility decisions based on the recognition of professional certificates for the period 1997-2022.	61
Figure 6: Share of positive decisions by decision type (temporary mobility and establishment) for (a) the home country (left) and (b) the host country (right) (1997-2022).	61
Figure 7: Share of positive mobility decisions by host countries (series) for all 'sending' countries (vertical axis) for the period 1997-2022 (n=1 429).	62
Figure 8: Positive decisions for mobility by profession category.	63
Figure 9: Evolution of positive mobility decisions by profession category for the period 1998-2022.	63
Figure 10: Evolution of positive automatic mobility decisions with indication of dates of accession to STCW-F.	65

LIST OF TABLES

Table 1: Regulated professions under the generic profession name 'fisherman' in the EU Regulated Professions Database.	34
Table 2: Professions included in the classification and analysis of fishers' mobility for the study.	40
Table 3: Qualification levels required for the identified regulated professions.	43
Table 4: Regulated professions by Member State and number of <i>actual</i> professions associated with them.	46
Table 5: Generic name, name of the regulated profession in English and actual professions.	48
Table 6: Actual fishing professions identified under Category 1 – skipper/master/captain.	51
Table 7: Actual fishing professions identified under Category 2 – chief mate/first mate.	52
Table 8: Actual fishing professions identified under Category 3 – mate/second hand.	53
Table 9: Actual fishing professions identified under Category 4 – Engineering professions.	54
Table 10: Actual fishing professions identified under Category 5 – seaman (<i>sensu lato</i>).	55

Table 11: Statistics on establishment and temporary mobility of EU fishers by type of decision (1997-2002).	59
Table 12: Categories of mobility decisions for EU fishers for the period 1997-2022.	60
Table 13: Type of decisions of EU fisher's mobility applications by level of qualification (pending, positive, negative).	66
Table 14: EU Member States that have ratified the STCW-F Convention as of 4 August 2023.	69
Table 15: Entitlement of self-employed workers to social security branches in EU Member States with a coastline.	103

EXECUTIVE SUMMARY

The present study on 'Training and social security schemes for fishers - State of play and perspectives in the EU' was commissioned by the European Parliament's Committee on Fisheries (PECH). Resulting from a general consensus on the need to support the progress of the social dimension of the Common Fisheries Policy (CFP), the study aims to present and analyse the current **state of play of the mutual recognition of certificates of competency** of EU fishers and the **functioning of the social security schemes** that cover them. The standardisation of minimum levels of training among EU fishers - to improve their safety at sea and working conditions - requires an understanding of the training and certification systems currently in place. Furthermore, how these certifications are recognised - or not - among EU Member States, is essential for supporting the free movement and safety of fishers in the EU. This information is currently lacking, and the study aims at narrowing this gap. In a similar way, social security has been a neglected topic in the EU fisheries policy. Nevertheless, social security is a human right, and is considered essential for the fair and efficient functioning of the EU labour markets and welfare systems. This study is expected to break new ground and support understanding of the different social security schemes for fishers applied by Member States.

Mutual recognition of fishers' certificates of competency

The study of the mutual recognition of fisher's certificates is based on the analysis of the functioning of the Professional Qualifications Directive 2005/36/EC and on data collected from the EU Regulated Professions Database. The recognition of professional qualifications of fishers wishing to exercise their profession in another Member State is currently governed by the Professional Qualifications Directive, which is non-specific to the fishing sector. Whereas a special regime exists for seafaring professions within the Professional Qualifications Directive, this is not the case for fishing professions. The system is based on a one-directional recognition of qualifications. The process is initiated by the applicants who received their qualifications in their home Member State, with their applications being then evaluated by the competent authority in the host Member State. Based on the Regulated Professions Database, the fishing profession is currently regulated in only 10 Member States, with 46 'regulated professions' identified giving access to 78 'actual professions' in six categories: skipper/master (24 professions), chief/first mate (6 professions), mate/second hand (8 professions), engineers (28 professions), seaman (10 professions), various (2 professions). This study has identified that **required levels of qualification vary greatly**, both within and between profession categories and countries, and this diversity in qualification pathways is especially high for skipper professions. Thus, regulated fishing professions differ considerably in scope in terms of required competencies, training and fields of application, which may **significantly hamper mutual recognition of certificates and fishers' mobility** across the EU.

The analysis of the decisions on recognition by host Member States under Directive 2005/36/EC showed that between 1997 and 2022, 1740 decisions for EU fishers' mobility were processed and 1427 attained positive decisions. The profession categories that were most often positively assessed were seaman, skipper, and engineer. From 2014 onwards, the share of engineering professions increases. These numbers can be used as a proxy reflecting the mobility needs and functioning of the EU recognition system in place. However certain mobility needs may not be reflected in this analysis, for instance when it is expected *a priori* that the application will be negatively assessed based on the home country qualification, the regulated profession, or a combination of both. Over the analysed period, most positive automatic decisions were made by the competent authorities in Spain and Portugal (together accounting for 92% of the decisions), of which an overwhelming majority took place after the

ratification by these countries of the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F).

Social security schemes for fishers

The study of the social security schemes for EU fishers relied on an extensive literature review, online search and analysis of the data available in the European System of Integrated Social Protection Statistics (ESPROSS). **Social security coverage in the fishing sector depends on the type of fisher's employment relationship and the Member State where the profession is exercised.** Around 125 000 fishers are fully or partially employed in the EU. Most of them are employed in Spain, Italy and Greece, while large fisheries workforces also exist in Portugal, France and Croatia. For social security analysis, employment in the EU fisheries sector can be divided in two segments: (1) fishers working under standard employment relationships independently of the remuneration system (monthly fixed wage or shared remuneration system), and (2) fishers working under non-standard relationships or self-employed, including full-time and part-time fishers, under legal unpaid work and in a system of shared remuneration.

Fishers under **standard employment relationships** are almost exclusively workers in **large-scale fishing**, which involves 24% of EU vessels and 45% of fishers in the EU. **Distant water fishing** involves a very small fraction of the total number of vessels (around 0.4%) and some 4% of crew, with practically all of them working under standard employment relationships. All these fishers work under formal working contracts with a fishing company and are paid with monthly salaries or shared remunerations. Almost 80% of these fishers are full-time employees and their social security schemes – with a few exceptions in some Member States – follow the national standard schemes for workers. This study identified eight Member States where social security for fishers is subject to special laws or regimes and the services are provided by institutions especially in charge of the social protection of workers at sea. These countries are Belgium, France, Portugal, Germany, Greece, Spain, Ireland and Denmark.

In the **small-scale fisheries sector**, the statuses of **self-employment, part-time, unsalaried and unpaid workers** are prevalent (non-standard relationships). The largest share of the EU fishers (around 50% of the total) work in the small-scale coastal fishing sector. According to STECF 2019, these fishers are in their majority self-employed fishers. The category of self-employed includes fishers that are legally under unpaid work arrangements, who are not obliged to pay any social contribution (as in the case of all small-scale fishers in Cyprus), and are not covered by any social security scheme. For the rest, self-employed fishers' social security schemes follow the schemes for all self-employed workers in EU Member States. As self-employees in the EU, small-scale fishers remain uncovered for some risks including unemployment, sickness and occupational accidents, although voluntary options have been introduced in recent years in some Member States.

Main results

This study provides the first EU-wide analysis of fishers' certifications of competency and the system of recognition of these certificates across Member States since the publication of a similar report in the year 2000. After more than 20 years, the present study has identified that according to the EU Regulated Professions Database, 10 Member States have regulated fishing professions encompassing a total of 46 fishing professions that give access to 78 actual professions. Furthermore, this study has also identified that the required levels of qualification vary greatly, both within and between profession categories and countries and especially for skipper professions.

Considering the shortages of labour in certain fishing fleets and the role of the EU to facilitate the free movement of workers across the region and improve safety at sea by setting minimum standards of

fishers training, this study considers that **an EU standard for training of fishers would improve the level playing field for mutual recognition of fishers' certificates, promote mobility of fishers, and contribute to the overall attractiveness of the fishing sector**. It also argues that this standard would **reduce the administrative costs and burdens** associated with the current system of recognition, in particular in countries with large fishing fleets. Furthermore, an EU-wide standard could be integrated in the current legislative framework through **specific legislation**, as is the case for the training of EU seafarers. Given the increasing number of **fishers recruited from non-EU countries** over the last years, an EU legislative act will also be an advantage compared to the ratification of the STCW-F.

In regard to social security, this study has identified large differences between Member States that could impact on the generational renewal and the attractiveness of the fishing profession. In eight Member States social security for fishers is governed by dedicated laws or regimes and the services are provided by institutions specifically in charge of the social protection of workers at sea, including fishers. While reliable statistics for the number of small-scale fishers and their employment relationships are not available at EU level, this study can conclude that **small-scale fishers are not covered by any social security schemes**, or belong to the segment of economically dependent self-employment, and **remain uncovered mostly in the branches of unemployment, sickness and working injuries**. This study therefore provides an important initial overview and acts as a baseline for future research. The Commission could consider increasing Member State requirements for the collection of data regarding the nature and extent of employment relationships and social security, in particular in the small-scale fishing sector.

1. BACKGROUND

One main goal of the European Union Common Fisheries Policy (CFP) is to ensure that fisheries are ecologically, economically, and socially sustainable. Fishers represent the core of the social sustainability pillar, as fish stocks do for ecological sustainability and profits for the economic pillar. In this sense, efforts to foster fishers' safety, decent working conditions and general well-being in fishing communities are as relevant as efforts to improve the health of marine ecosystems or efforts to ensure a profitable fishing sector. Yet, despite the availability of well-established procedures for setting targets, manage and monitor the sustainability of fish stocks - such as the Maximum Sustainable Yield target and the Total Allowable Catch system - and for measuring economic profitability, how to uphold and ensure a socially sustainable EU fishing sector is still in need of further dedicated data collection and implementation efforts.

Scholarly research has investigated the reasons that might be contributing towards a bias of ecological and economic considerations at the EU fisheries governance level. Among them, academics have reported the lack of explicit social objectives in the CFP and their understanding, missing governance structures, limited research, insufficient data collection, use of qualitative data that is perceived as restraining evidence gathering, lack of expertise in themes related to fishers' welfare and social sustainability, and insufficient implementation by Member States (Stephenson *et al.* 2017). Meanwhile, the number of active fishers in the EU has decreased drastically over the last decades (Salz *et al.* 2006, Lloret *et al.* 2018, STECF 2020, 2022), which in some cases has created labour shortages (Cabeza Pereiro 2021). Similar trends include low levels of job satisfaction among fishers (Arias Schreiber *et al.* 2021) and an ageing fishers population linked to a substantial shortage of generational recruitment (European Parliament 2021). These trends have been reported to be impacting especially, but not exclusively, the EU coastal or small-scale fisheries sector (SSF). Lack of reliable, disaggregated and systematically collected data and monitoring of social variables make it difficult to properly evaluate and suggest strategic measures to reverse these trends (European Parliament 2021). This situation has been reported to be even more problematic when trends vary greatly among Member States or at regional levels (European Commission 2016, European Parliament 2021)¹.

One characteristic of the fishing industry worldwide is its substantial need of workforce inputs (Gee *et al.* 2017). Around 124 000 fishers were directly employed in the EU in 2020, with 90% of them working in the SSF sector and less than 4% of them being women (STEF 2022). This number increases to around 400 000 if all part-time fishers and workers in the processing sector are included. EU employment in the fishing sector tends to be concentrated in certain Member States. Spain alone accounts for 25% of the total employment, while Spain, Greece, and Italy together represent around 62% (*ibid.*). Furthermore, these employment figures account for fishers working in highly diverse conditions. For example, a European fisher can be a man working in a trawler more than 40 metres long operating out of the coast of Mauritania and spending six to ten weeks at sea, or a woman collecting shellfish on foot a few hundred metres from her home along the Galician coast of Spain. It is therefore expected that the well-being and perceived needs for pursuing decent working conditions will vary substantially along the broad spectrum of contexts and conditions in which EU fishers are employed. This diversity poses challenges to the standardisation of data collection and the analysis of the sector, hampering the pursuit of social sustainability goals.

¹ However, the multiannual program for data collection (EU MAP) (Decisions (EU) 2021/1167 and 2021/1168) specifies social variables to be collected every three years from 2018 onwards including: employment by gender; full Time Employment (FTE) by gender; unpaid labour by gender; employment by age; education level and nationality, employment by employment status, and national total FTE.

The European Commission has recently relaunched the discussion on the social dimension of the EU fisheries sector with the declaration of its 'Fisheries and Oceans Pact'. This communication recognises that the attractiveness of the fishing sector, key to its sustainable and resilient future, depends on reaching a high standard of fishers' safety and working conditions. The Commission intends to level the playing field for the social sustainability pillar by establishing the inclusion of fishers' well-being and labour conditions as key factors for the sustainable future of the sector. It also recalls the existing ambitious international standards, adopted under the International Maritime Organization (IMO), such as the Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessels Personnel (STCW-F Convention), or under the International Labour Organization (ILO), such as the Work in Fishing Convention C188. The present study addresses specific aspects of the CFP's social dimension by focusing on the training of EU fishers to improve their safety at sea, the recognition of the certificates of competency of fishers to facilitate their mobility between Member States, and on the functioning of the social security schemes that cover the fishing profession. In particular, this report aims to deliver an up-to-date overview of the mutual recognition of fishers' certificates of competency and provide a first analysis of the functioning of social security schemes for fishers in EU Member States with an emphasis on the small-scale fisheries sector.

This study consists of the following four parts:

Chapter 1 outlines the current state of play, and the main challenges in relation to the training and certification of fishers, and to the social security schemes in the EU fisheries sector. This chapter also describes the general objectives of the study and the methodology used.

Chapter 2 provides a detailed description of the legal framework for the training and certification of fishers, including international conventions and EU regulations. This chapter includes the description and analysis of the current procedures for the recognition of professional qualifications between EU Member States; the level of mutual recognition of fishers' certificates in the EU and the ratification of the STCW-F Convention and discusses the perspectives of the EU fisheries sector.

Chapter 3 identifies the existing international legal frameworks for the provision of social security for fishers. This part describes and analyses the social security schemes for fishers in the EU Member States and identifies some best practices to extend the coverage and efficiency of social protection among fishers.

Chapter 4 provides the conclusions and policy recommendations relevant to EU decision-making so that the challenges and opportunities related to the mutual recognition of fishers' certificates and to social security schemes for fishers are taken into account in future legislation.

1.1. Introduction

1.1.1. Standardised training and certification to ensure safety at sea

Fishing is known to be hazardous compared to other occupations. Although reliable and up-to-date data for the fishing sector are lacking, the statistical office of the European Union or Eurostat provides annual figures of fatal and non-fatal accidents at work for different activities. In 2021, the 'Agriculture, Forestry and Fishing' sector ranked fourth in terms of the number of fatal accidents at work, after the construction, transportation and storage, and manufacturing sectors, and accounted for 11.4% of the total fatal working accidents in that year. Furthermore, the 2022 annual review of marine casualties and incidents of the European Maritime Safety Agency (EMSA) reports that fishing is the most hazardous among marine sectors, with fishing vessels representing 64% of vessels lost at sea in 2021 (61% on average in the period 2014-2021) (EMSA 2018). Fishing vessels also score high in terms of other

damages and various types of assistance needed. EMSA reports that, as much as 56% of search and rescue operations at sea between 2014 and 2021 were carried out for fishing vessels, with an increasing trend in this percentage. These statistics can be regarded as conservative since they exclude accidents on small vessels, which represent around 80% of the total number of vessels in the EU.

The international conventions at the core of the discussion on safety at sea in the context of fisheries are:

- the IMO Torremolinos International Convention for the Safety of Fishing Vessels (1977);
- the IMO International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (1995) (STCW-F); and
- the ILO Work in Fishing Convention (2007) (C188).

Regarding training and certification of fishers, the STCW-F Convention is considered the most relevant. STCW-F deals with minimum requirements for training and education of fishers and sets standards for the certification of skippers, engineer officers and radio operators together with safety basic training and watchkeeping. By 2023, the STCW-F Convention has been ratified by 35 parties worldwide. Of these parties, 10 are EU Member States: Belgium, Denmark, France, Latvia, Lithuania, the Netherlands, Poland, Portugal, Romania, and Spain.

As reported by the IMO, a revision of the STCW-F Convention is currently underway². However, some issues that need to be addressed by the text of the convention have been also reported. Most notably, the STCW-F Convention includes only one obligatory training for all fishing personnel (i.e. the 'Basic Safety Training' described in Chapter III of the convention). This training is compulsory regardless of the position on board, the size of the fishing vessel, its propulsion power and its area of operation. In addition, while the convention does stipulate the topics that should be addressed in the Basic Safety Training, it does not give guidance for contracting parties on the precise content of this training. As explained by a current EU project to set the standards for sustainable fisheries training with the title 'Catching the Potential'³ project, each country administration can follow their own procedures and insights. As a result, the content of Basic Safety Training for which a mutual certificate is issued, may vary dramatically between countries. Furthermore, it is up to the administration of the contracting party (the Member State in case of the EU) to establish whether – and to what extent – these provisions apply to personnel operating in small fishing vessels or personnel already employed on fishing vessels⁴. Another issue regarding the need for a revision of the convention could be its emphasis on technical aspects of vessel's safety rather than on the 'human dimensions' of safety. For example, the requirement for foreign crews to have a minimum level of language proficiency in the same language that the skipper speaks (or the fisher in charge of providing instructions in case of emergencies), is not considered.

1.1.2. The IMO STCW-F Convention and the EU

The institutions of the European Union have clearly reiterated their commitment to improving safety at sea, most notably in relation to the STCW-F Convention. Following a proposal from the European Commission, the Council Decision (EU) 2015/799 was adopted, authorising Member States to become party to the STCW-F Convention. Rather than simply authorising EU Member States to ratify the Convention, the Decision encourages them to do so. This is established in a 2019 progress report from

² see <https://www.imo.org/en/MediaCentre/MeetingSummaries/Pages/HTW-9.aspx>

³ see <https://catchingthepotential.eu/project/>

⁴ see <https://catchingthepotential.eu/wp-content/uploads/2020/04/STCW-F-Revision-2020-two-pager.pdf>

the European Commission to the Council⁵. The report states: *'It is important that all EU Member States ratify the convention to create a level playing field and to avoid friction between international and Union law.'* Additionally, a concern about the low ratification rates of the STCW-F Convention by EU Member States is emphasised by the Commission in this report.

The EU recognises that the importance of the STCW-F Convention extends beyond fishing, to include safety of international shipping, the protection of the marine environment, and the mobility and free movement of workers. The 2019 progress report from the European Commission hence states:

'This convention is a significant contribution not only to the protection of fishers but also to safer international shipping. It promotes the safety of life and property at sea, thereby also contributing to the protection of the marine environment. Since fishing at sea is one of the most hazardous professions, and fishing vessels and their crew are facing the same hazards and risks in the open seas as commercial seagoing vessels, appropriate training and qualifications are an essential means to reduce the number of accidents and to contribute to the safety and security of the crew on board, and to maritime safety' and

'Furthermore, the STCW-F Convention is also of great importance regarding the free movement of workers. Fishers might become more mobile having the possibility to work onboard of fishing vessels of all Member States Parties to the STCW-F Convention. Therefore, the harmonisation of their qualifications by the introduction of a common minimum level of training for fishing vessels personnel will not only improve safety at sea, but it will also further facilitate the free movement of workers. Moreover, it will establish a level playing field in the EU and also in relation to third countries.'

The Commission equally recognises that fishers on board of fishing vessels are not protected at the same level of seafarers in the maritime shipping sector, governed by the IMO International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW). STCW has been implemented into EU law through Directives (EU) 2009/16/EC and 2022/993. While the purpose and scope of both conventions are very similar (one for fishing, the other for seafaring), the STCW Convention has been ratified by 164 countries worldwide (including all EU Member States) while STCW-F have been only ratified by 35 countries and only 10 EU Member States.

Also playing a key (advisory) role in the current revision of the STCW-F Convention, the European Commission has accredited personnel to the IMO for this purpose (pers. comm. DG MARE). In February 2023, a communication by the Commission to the European Parliament and the Council, known as the 'Fisheries and Oceans Pact' established the Commission's dedication regarding this topic. As stated,

'[The Commission will] consider proposing, after the adoption of the revised International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F), a directive to ensure its correct transposition into the EU legal order and will assist Member States to accelerate ratification of the International Labour Organization (ILO) and International Maritime Organization (IMO) conventions'⁶.

⁵ Report from the Commission to the Council on the progress of Member States' accession to the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, of the International Maritime Organisation, according to Article 2 of Council Decision (EU) 2015/799 ('COM(2019) 157 final'): <https://eur-lex.europa.eu/legal-content/EN/TEXT/?uri=COM:2019:157:FIN>

⁶ Source https://oceans-and-fisheries.ec.europa.eu/system/files/2023-02/COM-2023-103_en.pdf

1.1.3. Social security of fishers

In November 2017, the European Pillar of Social Rights was established to deliver better rights for people and to support welfare systems and an effective labour market. Among the rights of equal opportunities and access to labour markets in tandem with fair working conditions, the Pillar comprises initiatives to ensure adequate social protection to all EU citizens. In comparison with workers in other occupations, fishers are highly exposed to risks such as work injuries or insecure incomes. However, as most fishers are self-employed or work under part-time or seasonal employment arrangements, access to effective social protection remains limited in the fisheries sector in the EU and worldwide (Bladon *et al.* 2022).

Social security is usually available to fishers in formal salaried work with contributions deducted at the point of payment. This system excludes not only most self-employed small-scale fishers but also workers involved in related low valued supporting activities such as the cleaning or baiting of fishing gears or mending of nets (often done by women). However, the provision of social security in the EU fishing sector is not only framed under the principles of the European Pillar of Social rights associated with equal treatment and social inclusion for all citizens. The lack of generational recruitment in some EU fishing fleets is posing serious challenges to the viability of the sector. An adequate provision of social security can contribute to stir up younger generation's interests in the fishing profession. Therefore, an analysis of the state of art of social security schemes for fishers and the identification of best practices are required to guide policies to improve the sustainability of the fisheries sector in the region.

The European Parliament resolution of 16 September 2021 on 'Fishers for the future'⁷, recognizes that a large proportion of fishers in the EU have low and irregular incomes and are often only partially covered by social security. Lack of secure incomes and vulnerabilities derived from insufficient social protection are important factors that could be negatively impacting the attraction of European younger generations to the fishing profession. The document calls for an urgent improvement on the collection of reliable and up-to-date social data including more detailed employment records by Member States to fully implement the social pillar of the CFP. Furthermore, the resolution proposes the use of European Structural and Investments Funds to support and compensate fishers during temporary cessation of their activities due to conservation management measures guaranteeing a minimum wage and improving their social security coverage during these periods.

1.1.4. The role of the social partners in sea fisheries

In the EU, the term social partners refer to the representatives of management and labour (employer organisations and trade unions), that engage in social dialogue. This social dialogue includes discussions, consultations, negotiations and joint actions involving representatives of both employers and workers of an industry. The EU participates in two forms of social dialogues: tripartite dialogues involving the public authorities, and bipartite dialogues between the European employers and trade union organisations. These dialogues take place at cross-industry level and within sectoral social dialogue committees.

The social partners in sea fisheries, through the Sectoral Social Dialogue Committee – Sea Fisheries (SSDC-F) includes one workers' organisation – the European Transport Workers' Federation (ETF), and two employers' organisations – *Europêche* (the Association of national organisations of fishing enterprises in the EU), and the Fisheries Section of COGECA (the General Confederation of Agricultural Cooperatives in the European Union). SSDC-F have constantly highlighted the importance of ratifying

⁷ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021IP0386>

and implementing international conventions pertaining to the safety of fishing personnel on board fishing vessels into Union law including the STCW-F Convention and the ILO Work in Fishing Convention C188.

Regarding the level of competence of the social partners in sea fisheries, the report of van der Zwan (2018) on behalf of the social partners explains that:

‘On basis of Article 155 of the [Treaty on the Functioning of the European Union (TFEU)] social partners at Union level have the competence to enter into agreements. If such an agreement deals with matters covered by Article 153 of the TFEU, the social partners may ask the European Commission to propose to the Council transposition of the agreement, through a Council Decision, into a legal instrument of the Union, for instance a Directive’.

In his study, van der Zwan focuses on the international and EU frameworks governing safety at sea, and on the competences and duties of the EU and the Member States. Central to van der Zwan’s argument is Article 155 of the TFEU providing the legal basis for the implementation of the STCW-F Convention into Union law.

As regards fishers working conditions, previous to the establishment of the Pillar of Social Rights, the social partners through the SSDF-F signed an agreement in 2012 on the implementation of the Work in Fishing Convention C-188. Four years after the signature, the EU Council transposed this agreement into Directive EU 2017/159. This Directive had to be implemented by all Member States in 2019. However, the Directive differs from the C188 Convention in that it has no provisions regarding social security and that it only applies to fishers on a formal employment relationship and not the self-employed (van der Zwan 2018).

In 2015, the social partners agreed on a revised social clause to be inserted in the Protocols governing EU Sustainable Fisheries Partnerships Agreements (SFPAs). SFPAs allow EU vessels to fish for surplus stocks in the exclusive economic zone (EEZ) of non-EU countries. The agreed clause has the purpose to guarantee decent working conditions for non-European fishermen working on board vessels operating under SFPAs. Recent agreements have changed the social clause, and now the Protocols specify the signature of an employment contract to be shared with relevant authorities, guaranteeing social security and work insurances to non-EU country workers. For example, the last Protocol concluded with Seychelles in 2020 increased the scope of social benefits to include *inter alia* pension benefits and end-of-contract compensation benefits for fishers. However, the proposal by EU social partners has not been fully included in the Protocols until now (European Commission 2023a).

1.2. Study aim and objectives

The European Parliament’s Committee on Fisheries (PECH) has commissioned this research following recent developments in the fishing sector and based on several observations. First, it is increasingly recognised by the EU that more emphasis and progress is needed in the social dimension of the CFP. This recognition was recently reiterated in the resolution ‘Fishers for the future: Attracting a new generation of workers to the fishing industry and generating employment in coastal communities’ (A9-0230/2021). Furthermore, through its ‘Fisheries and Oceans Pact’, the European Commission recently relaunched the discussion of the social dimension of the CFP. For this study, the Commission asserts that the attractiveness of the fishing sector depends on reaching a high standard of safety and working conditions, and that aligning these standards with internationally agreed conventions is a key goal.

The present study is aimed at addressing two specific aspects of the social dimension of the CFP: the recognition of certificates of competency of EU fishers, and the functioning of the social security schemes that cover them. As such, the present study consists of two distinct sections. Chapter 2 deals

with the topic of mutual recognition of fishers' certificates of competency, whereas Chapter 3 deals with the topic of social security schemes in EU fisheries. The objectives of the study for each section are as follows:

1. Provide an up-to-date overview of the mutual recognition of fishers' certificates of competency by Member States. For doing so, this study will:
 - describe the international legal framework concerning the training and certification of fishers, and the role of the EU in the implementation of these provisions;
 - examine the process of ratification of the international standards by Member States, and identify the challenges that hinder it; and
 - assess the current state of play of the recognition of fishers' certificates of competency across the EU.
2. Analyse the functioning of social security schemes for fishers in Member States. To achieve this objective this chapter will:
 - describe the international legal framework concerning the social protection of fishers, and the role of the EU in the implementation of these provisions;
 - analyse the social security systems for marine fisheries across Member States, in particular as regards the schemes dedicated to small-scale fishers; focus on national schemes concerning benefits for unemployment, retirement and accidents at sea; additionally, outline the measures dealing with temporary and permanent cessation of fishing activities; and
 - identify best practices that could be replicated in other Member States to ensure adequate social protection.

1.3. Methodology

This study adopted a mixed-methods research approach, combining extensive desk research with a limited number of stakeholder consultations. A comprehensive set of tasks from standard research practices such as literature reviews, collection and descriptive statistical analysis of public databases and design and analysis of semi-structured interviews were carried out. The desk research also included intensive analytical work based on available databases. The report is based on published and online sources and on information provided by key respondents from DG MARE, the social partner organisations (ETF and Européche) members of the International Maritime Organization (IMO) and non-governmental representatives of the European small-scale fisheries sector (Low Impact Fisheries in Europe).

This study is limited to EU Member States with a coastline, and excludes the landlocked Member States (Austria, the Czech Republic, Hungary, Luxembourg, and Slovakia). As far as sector-relatedness is concerned, the demarcation of the sea fisheries sector was established as covering NACE Rev. 2 code 03.11 (NACE Rev. 2 is the statistical classification of economic activities in the EU). The related marine aquaculture subsector (NACE Rev. 2 code 03.21) has been excluded from this study, although it is part of the broader marine fisheries sector. Therefore, for the purpose of this study, sea fisheries are considered as including fishing at sea only (small-scale coastal fishing, large-scale fishing, and distant water fishing) and excluding fishing activities on foot or for subsistence or recreational purposes.

Given the broad scope of the two addressed topics, certain choices were made to ensure the feasibility of the study within the available time frame. For assessing the state of play of the recognition of fishers' certificates of competency across the EU, the scope was limited by data availability in the Regulated

Professions Database, which focused most of the analysis on 10 Member States. Preference was given to the extensive study of the basis for mutual recognition of fisher certificates by describing and comparing regulated fishing professions.

Several studies played a crucial role in shaping Chapter 2 of this study. First, the study of van der Zwan 2018, entitled 'Training and certification of fishermen – The role of the European social partners in sea fishing', was a key source of information. Van der Zwan's insights are well-documented and provide an accurate and up-to-date overview of the social partners' positions regarding the international framework and EU concerning training and certification of fishers. Second, the 2018 study on 'Training of Fishers', (Ackermann *et al.* 2018) commissioned by the PECH Committee, served as a baseline against which some of the insights gathered for this research could be compared. This was particularly the case for evaluating the current state of play of the recognition of fishers' certificates of competency across the EU in Chapter 2.

2. MUTUAL RECOGNITION OF FISHERS' CERTIFICATES OF COMPETENCY

As a rule, qualified fishers may work on board a fishing vessel in a country other than the country where they were trained, if their training certificates are recognised by the host country. The mutual recognition of certificates of competency is considered to contribute to the mobility of fishers and the overall attractiveness of the EU fishing sector (Ackermann *et al.* 2018). A standard certification combined with a minimum standard on training (cf. STCW-F) and safety (cf. C188, Torremolinos Convention) on board, ensures safe working conditions for fishers everywhere.

The European Commission recognises the need for 'a high standard of safety and working conditions', aligned with internationally agreed conventions (European Commission 2023b). At present, the definition and provision of fishers' certificates of competency is the responsibility of the Member States. Consequently, there are many different fishers' certificates in the EU, each with their own requirements (e.g. qualification pathway, hours of training, activities allowed, etc.) and limitations (e.g. length of the vessel, propulsion power, tonnage, area restrictions, etc.). Their mutual recognition is governed by a generic system (non-specific to the fishing sector), laid down in Directive 2005/36/EC. This system has been criticised for being inefficient in the fishing sector (van der Zwan, 2018).

It should be noted that, while the social partners and the European Commission agree on the importance of anchoring EU standards in existing international frameworks (in particular the STCW-F Convention), they propose different pathways to accomplish this goal. The social partners are advocating for the implementation of the STCW-F Convention into Union law through a Directive (van der Zwan, 2018), whereas the Commission prefers the route of widespread ratification of the STCW-F Convention (i.e. advising Member States to ratify the Convention, making it their responsibility to comply with the international standard).

In this study, the analysis of the international and EU frameworks governing training and certification of fishers encompasses two aspects. The first aspect is the general overarching 'safety at sea' framework, as defined by international conventions and EU legislation. Emphasis in this part of the study is given to examining safety-related provisions in these instruments, as well as the competences of the EU and of Member States in ensuring different features of safety at sea. While 'safety' is a very broad topic (e.g. training of fishers, safe construction and seaworthiness of fishing vessels and equipment, etc.) the main focus here is on training. The second aspect to be treated in this chapter is the EU Directive governing the recognition of qualifications (Directive 2005/36/EC).

Once the legal framework is established, this chapter continues with an assessment of the current state of play of the recognition of fishers' certificates of competency across the EU. This assessment focuses on the description and classification of regulated fishing professions as found in the Regulated Professions Database (DG GROW), and how they are being recognised by other Member States (statistics on recognition and mobility).

Lastly, this chapter examines the current state of play regarding the ratification of the STCW-F Convention by EU Member States. Based on published sources as well as consultations with members of DG MARE and the sector, the aim is to establish why certain Member States have not ratified the STCW-F Convention.

2.1. Legal framework for the certification and training of fishers

KEY FINDINGS

- The training and certification of fishers in the EU is governed by international conventions and EU regulations. The three **key international conventions** are: STCW-F, C188 and Torremolinos. Implementation of the STCW-F Convention was identified as key for protecting life at sea and training of fishing personnel on board fishing vessels.
- To date, only ten EU Member States have ratified the STCW-F Convention, which defines minimum requirements (standards) for the training and education of fishers. While the European Commission and the social partners share a common view on the **urgency of implementing the STCW-F Convention**, they propose different pathways to accomplish this goal.
- The social partners plead for the implementation of STCW-F provisions into EU law through an **EU Directive**, as it has been done for other conventions (C188, Torremolinos, and the STCW Convention). This would ensure a strong standard which is easily enforceable. The Commission's efforts are focused on encouraging Member States to **ratify STCW-F**. However, the Commission has stated recently that it will consider proposing a directive, albeit in parallel with continued efforts towards EU-wide ratification.

2.1.1. International conventions and guidelines

The United Nations Convention of the Law of the Sea (1982)

The 1982 United Nations Convention on the Law of the Sea (UNCLOS) entered into force on 16 November 1994. The European Union became party of UNCLOS on 1 April 1998. Article 92 of UNCLOS stipulates that (fishing) vessels fall under the exclusive jurisdiction of the Flag State. Article 94 places the duty on Flag States to adopt measures under their internal law that ensure safety at sea 'taking into account the applicable international instruments'. This is accomplished through the ratification of or accession to such instruments, and their implementation in national law.

According to van der Zwan (2018) a distinction among three 'cornerstone conventions' to govern safety at sea in fishing can be made in a broader sense:

- the IMO Torremolinos International Convention for the Safety of Fishing Vessels (1977);
- the IMO International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (1995) (STCW-F); and
- The ILO Work in Fishing Convention (2007) (C188).

Article 94, paragraph 2 (b) of UNCLOS reads: *'[In particular every State shall] assume jurisdiction under its internal law over each ship flying its flag and its master, officers and crew in respect of administrative, technical and social matters concerning the ship'*. Van der Zwan (2018) explores two key questions: (1) how does UNCLOS govern safety at sea? and (2) does UNCLOS oblige contracting parties to take measures pertaining to safety at sea stipulated in other international instruments to which they are party? Following these questions, Van der Zwan deems Article 94 'ambiguous' and considers that it

must be interpreted broadly *'to include any matters affecting vessel operations in order to avoid regulatory lacunae and conflicts'*⁸.

An examination of the provisions within UNCLOS to govern safety at sea is needed here. Article 94 paragraph 3 stipulates: *'Every State shall take such measures for ships flying its flag as are necessary to ensure safety at sea with regard, inter alia, to:*

(a) the construction, equipment and seaworthiness of ships;

(b) the manning of ships, labour conditions and the training of crews, taking into account the applicable international instruments;

(c) the use of signals, the maintenance of communications and the prevention of collisions'

Paragraph 4 continues:

'Such measures shall include those necessary to ensure:

(a) that each ship, before registration and thereafter at appropriate intervals, is surveyed by a qualified surveyor of ships, and has on board such charts, nautical publications and navigational equipment and instruments as are appropriate for the safe navigation of the ship;

(b) that each ship is in the charge of a master and officers who possess appropriate qualifications, in particular in seamanship, navigation, communications and marine engineering, and that the crew is appropriate in qualification and numbers for the type, size, machinery and equipment of the ship;

(c) that the master, officers and, to the extent appropriate, the crew are fully conversant with and required to observe the applicable international regulations concerning the safety of life at sea, the prevention of collisions, the prevention, reduction and control of marine pollution, and the maintenance of communications by radio'.

As regards the scope of UNCLOS, it should be noted that Flag States only have these duties with regard to fishing vessels that are operated beyond the Flag State's own EEZ, i.e. in the High Seas or in the EEZ of another State. According to van der Zwan (2018), this may explain why many Flag States are reluctant to ratify or accede to, implement and enforce international agreements on standards ensuring safety at sea in fishing when their vessels do not operate in the High Seas or within the EEZ of another State.

In other words, UNCLOS does not govern safety at sea within the EEZs of Flag States. As such, States are free to take, or not to take measures pertaining to safety at sea, whether or not based on internationally agreed standards (e.g. the STCW-F Convention). Following van der Zwan (2018), Section 2.1.2 in this study will discuss how the CFP and the Treaty on the Functioning of the European Union (TFEU) affect Flag State duties of Member States, and how this shapes the discussion on the different pathways for implementation of STCW-F provisions within the EU.

The FAO Code of Conduct for Responsible Fisheries (1995)

The Code of Conduct for Responsible Fisheries was adopted by the FAO in 1995, and it provides a framework for responsible and sustainable fisheries management. The Code is not a binding international treaty or convention in itself, but it serves as a set of guidelines and principles agreed upon by the FAO member countries.

⁸ Richard A. Barnes, Flag States, in: Donald R. Rothwell et al (ed.), op cit, p. 314 (after van der Zwan 2018)

The Code of Conduct for Responsible Fisheries provides a *'necessary framework for national and international efforts to ensure sustainable exploitation of aquatic living resources in harmony with the environment'*⁹.

With regards to safety, the Code recommends that:

- Paragraph 6.17: *'States should ensure that fishing facilities and equipment as well as all fisheries activities allow for safe, healthy and fair living and working conditions and meet internationally agreed standards adopted by the relevant international organizations'*;
- Paragraph 8.1.5: *'States should ensure that health and safety standards are adopted for everyone employed in fishing operations and that such standards should be not less than the minimum requirements of relevant international agreements on conditions of work and service'*¹⁰;
- Paragraph 8.1.6: *'States should make arrangements individually, together with other States or with the appropriate international organization to integrate fishing operations into maritime search and rescue systems'*
- Paragraph 8.1.7: *'States should enhance through education and training programmes the education and skills of fishers and, where appropriate, their professional qualifications while such programmes should take into account agreed international standards and guidelines'*; and
- Paragraph 8.2.5: *'Flag States should ensure compliance with appropriate safety requirements for fishing vessels and fishers in accordance with international conventions, internationally agreed codes of practice and voluntary guidelines. States should adopt appropriate safety requirements for all small vessels not covered by such international conventions, codes of practice or voluntary guidelines.'*

As such, the Code clearly establishes that any responsible fisheries policy should be coherent with policies governing safety at sea and calls on international agreements to govern this – specifically with regard to training, certification and decent living and working conditions on board fishing vessels. Van der Zwan (2018) furthermore notes that the Code ignores the limitation concerning the Flag State duties stipulated in Article 94 of UNCLOS (i.e. that these provisions do not apply within the waters of Flag States).

The Torremolinos International Convention for the Safety of Fishing Vessels (1977) and related international guidelines

The IMO Torremolinos International Convention for the Safety of Fishing Vessels was adopted in 1977. In 1993, the 'Torremolinos Protocol' was adopted, which entered into force in 1994. The Protocol updated, amended, and absorbed the parent International Convention for the Safety of Fishing Vessels. In 2012, the Torremolinos Protocol was amended by the Cape Town Agreement on the Implementation of the Provisions of the 1993 Protocol. The convention has still not entered into force.

The convention includes provisions on safe construction, equipment, and seaworthiness of fishing vessels, and applies only to vessels over 24 metres in length. References to training standards are included in Chapter VIII, Emergency Procedures, Musters and Drills' (Regulations 3 and 4) of the Annex to the convention: practising musters and drills, on board training and instructions, and training in emergency procedures (van der Zwan 2018).

⁹ see Code preface, p. iv (<https://www.fao.org/3/v9878e/v9878e.pdf>)

¹⁰ In this text 'Everyone employed' refers to both salaried workers and self-employed persons.

Van der Zwan notes that the Torremolinos Convention is considerably less developed than its seafaring counterpart, the International Convention for the Safety of Life at Sea, 1974 (SOLAS)¹¹. In particular, van der Zwan points to the requirement in SOLAS to establish ‘an appropriate working language to ensure effective crew performance in safety matters.’ More specifically, Chapter V of the Convention, Safety of navigation, Regulation 14, Article 3 reads¹²:

‘On all ships, to ensure effective crew performance in safety matters, a working language shall be established and recorded in the ship’s logbook. The company, as defined in Regulation IX/1, or the master, as appropriate, shall determine the appropriate working language. Each seafarer shall be required to understand and, where appropriate, give orders and instructions and to report back in that language. If the working language is not an official language of the State whose flag the ship is entitled to fly, all plans and lists required to be posted shall include a translation into the working language.’

Eleven EU Member States are party to the 1993 Torremolinos Protocol together making up ca. 43% of contracting parties globally. This represents a major shift compared to the findings of van der Zwan (2018), which noted that at the time of writing, only three EU Member States (Denmark, Germany, and the Netherlands) were party to the Cape Town Agreement. What caused this shift in recent years could not be confirmed within the scope of the present study.

The fact that the convention is not into force has been effectively bypassed by the implementation of the convention into EU law through Directive 97/70/EC (van der Zwan, 2018) (see below Directive 97/70/EC, implementation of the Torremolinos Convention).

The FAO, ILO and IMO have jointly published three additional documents, of which a summary of the training provisions is included below:

- The voluntary Code of Safety for Fishermen and Fishing Vessels (2005)
 - Part A: Safety and Health Practice. It applies to all fishing vessels. However, it distinguishes between two sub-categories: (a) Undecked and decked fishing vessels under 12 metres, and (b) fishing vessels over 12 metres. Guidance on education, training, and safety awareness is included in Section I, Chapter 3 (van der Zwan, 2018).
 - Part B: Safety and Health Requirements for the Construction and Equipment of Fishing Vessels. Chapter VIII on emergency procedures, musters and drills provides guidance for the training of fishers on board such vessels (van der Zwan, 2018).
- The Voluntary Guidelines for the Design, Construction and Equipment of Small Fishing Vessels (2005). These guidelines apply to decked fishing vessels between 12 and 24 metres. No guidelines for the training and certification of fishers are included (van der Zwan, 2018).
- Safety Recommendations for Decked Fishing Vessels of Less than 12 metres in Length and Undecked Fishing Vessels (2012). It includes recommendations for safe design, construction, and equipment of fishing vessels. Recommendations with regard to skipper and crew training are included in Chapter 12 (van der Zwan, 2018).

The International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F) (1995)

The International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F) was adopted on 10 July 1995, but only entered into force on

¹¹ see [https://www.imo.org/en/About/Conventions/Pages/International-Convention-for-the-Safety-of-Life-at-Sea-\(SOLAS\)-1974.aspx](https://www.imo.org/en/About/Conventions/Pages/International-Convention-for-the-Safety-of-Life-at-Sea-(SOLAS)-1974.aspx)

¹² see [http://www.mar.ist.utl.pt/mventura/Projeto-Navios-I/IMO-Conventions%20\(copies\)/SOLAS.pdf](http://www.mar.ist.utl.pt/mventura/Projeto-Navios-I/IMO-Conventions%20(copies)/SOLAS.pdf)

29 September 2012. STCW-F deals with minimum requirements for training and education of fishers, and sets standards for the certification of skippers, engineer officers and radio operators, safety basic training and watchkeeping.

The main objective of STCW-F is to *'further promote safety of life and property at sea and the protection of the marine environment by establishing in common agreement international standards of training, certification and watchkeeping for personnel employed on board fishing vessels'*¹³.

The Convention consists of a main text with 15 Articles, and an Annex which is divided into four chapters to which three Appendices are added¹⁴:

- Chapter I holds general provisions;
- Chapter II holds provisions on certification of skippers, officers, engineer officers, and radio operators;
- Chapter III holds provisions on basic, pre-sea safety training for all fishing personnel; and
- Chapter IV holds provisions on watchkeeping.

Chapters II to IV set minimum standards for¹⁵:

- (1) *Training and certification of nautical officers (i.e. skippers and officers in charge of navigational watches) on board fishing vessels of 24 m in length and over, operating in limited waters*¹⁶;
- (2) *Training and certification of nautical officers on board fishing vessels of 24 m in length and over, operating in waters beyond limited waters (i.e. in unlimited waters);*
- (3) *Training and certification of engineer officers aboard fishing vessels powered by main propulsion machinery of 750 kilowatts (kW) or more;*
- (4) *Training and certification of Global Maritime Distress and Safety System (GMDSS) radio personnel;*
- (5) *Basic, pre-sea safety training for all fishing vessel personnel;*
- (6) *Watchkeeping.*

It is important to emphasise here that the STCW-F convention holds provisions with regard to safety for all fishing personnel, in addition to specific provisions which apply only to personnel working on board fishing vessels over 24 m in length and/or with a propulsion power of more than 750 kW.

About mutual recognition of certificates, Regulation 7 ('Recognition of Certificates') of Chapter I stipulates¹⁷:

- (1) *Each Administration shall ensure, in order to recognise, by endorsement in accordance with Regulation 3, a certificate issued by or under the authority of another Party, that the requirements for standards of competence, as well as the issue and endorsement of certificates by that Party, are fully complied with.*
- (2) *Certificates issued by or under the authority of a non-Party shall not be recognised.*

¹³ Preamble to STCW-F, see <https://static.pmq.org.za/150623STCW-F.pdf>

¹⁴ Chapter overview from van der Zwan (2018).

¹⁵ Text adopted in full from van der Zwan (2018).

¹⁶ Limited waters are defined by the IMO as waters having limits defined by the Flag State's administration 'within which a degree of safety is considered to exist which enables the standards of qualification and certification for skippers and crews of fishing vessels to be set at a lower level than for service outside the defined limits' (Annex 1 to Resolution A.539(13)).

¹⁷ Text adopted in full. Source: <https://static.pmq.org.za/150623STCW-F.pdf>

- (3) *Notwithstanding the requirement of paragraph 1 of this Regulation and paragraph 5 of Regulation 3, an Administration may, if circumstances require, allow a person to serve for a period not exceeding three months on board a vessel entitled to fly its flag while holding an appropriate and valid certificate issued by another Party without it being endorsed as required by paragraph 5 of Regulation 3 provided that documented proof is made available that application for an endorsement has been submitted to the Administration.'*

Currently, the Convention is under comprehensive review in order to align its standards with the current state of the fishing industry and to make available an effective instrument, which *'will contribute to addressing the significant challenges of this sector'*¹⁸. The revision of STCW-F is expected to be concluded in May 2024 and to enter into force in January 2026 (pers. comm. DG MARE).

According to van der Zwan (2018 and interview), STCW-F provides a comprehensive and ready-to-use framework for the mutual recognition of fisher certificates, in contrast to the current system of mutual recognition governed by Directive 2005/36/EC (the 'Qualifications Directive', see below), which he calls *'aggravating and time-consuming'* for fishermen. The current system of mutual recognition as governed by Directive 2005/36/EC and the limitations of this system together with the alleged benefits of rooting the recognition of EU fisher certificates in STCW-F will be discussed further in this report.

In 2001, the FAO, the IMO and the ILO adopted STCW-F Resolutions 3, 4, 6 and 7 in a joint 'Document for Guidance on Training and Certification of Fishing Vessel Personnel'. The document provides guidance on the training of fishers working on board different types of fishing vessels:

- open and decked small fishing vessels (< 12 m);
- decked fishing vessels, 12-24 m;
- fishing vessels powered by main propulsion machinery of < 750 kW propulsion power;
- fishing vessels \geq 24 m or powered by main propulsion machinery of \geq 750 kW propulsion power.

Van der Zwan (2018) emphasises the importance of this document for the development of appropriate training of fishermen, as it also fills the gaps left by STCW-F, i.e. with regard to vessels smaller than 24 m in length and fishing vessels with propulsion power of less than 750 kW. The document also elaborates on the standards laid out in STCW-F, which makes this a particularly useful text for Member States wishing to implement or redesign their safety and training provisions for fishing personnel.

The Work in Fishing Convention and the Work in Fishing Recommendation (2007)

The ILO Work in Fishing Convention, 2007 (C188) entered into force on 16 November 2017. For this study, it suffices to consider the provisions with regard to training and certification of fishing personnel. While the Convention explicitly requires fishers to be trained (see van der Zwan 2018, p.31), it does not set standards for training and certification. According to van der Zwan (2018), the ILO C188 Convention was *'designed not to interfere with the substance of existing international standards and guidance'* and invokes the document 'The Making of C188' retrieved from the ILO's website. Indeed, this is expressed clearly by the representative of the Norwegian government during one of the discussions leading up to the Convention^{19,20}:

¹⁸ <http://www.imo.org/en/OurWork/HumanElement/Pages/STCW-F-Convention.aspx>

¹⁹ https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/genericdocument/wcms_181288.pdf

²⁰ Fifth item on the agenda: Work in the fishing sector – A discussion with a view to the adoption of a comprehensive standard (a Convention supplemented by a Recommendation) (first discussion). Report of the Committee on the Fishing Sector. Part III. Minimum requirements for work on board fishing vessels; discussion on minimum age (point 386).

‘The Government member of Norway noted that mandatory safety training for fishers was enshrined in Chapter III of the STCW-F Convention. The present instrument should not overlap with other Conventions. He therefore preferred the original text, recommending that the Committee should not try to incorporate substantive matters already dealt with by other organizations and instruments’.

Furthermore, guidance on the implementation of the C188 Convention is provided in the form of an ILO recommendation, Work in Fishing Recommendation, 2007 (R199), which acknowledges the view expressed above:

‘ILO Members take into account generally accepted international standards concerning training and competencies of [fishermen] in determining the competencies required for skippers, mates, engineers and other persons working on board fishing vessels’ – R199, item 11(a).

This study refers to van der Zwan (2018, p.31) for an overview of the stipulations in C188 with regard to training and qualifications of personnel on board fishing vessels (two categories: all fishing vessels, and fishing vessels over 24 metres in length).

Eight EU Member States are party to C188: Denmark, Estonia, France, Lithuania, the Netherlands, Poland, Portugal, and Spain. This represents an increase by five compared to 2018 (van der Zwan 2018). As such, EU Member States make up ca. 38% of contracting parties to this convention.

Similar to the Torremolinos Convention, C188 was transposed into Union law. Specifically, Council Directive (EU) 2017/159 applies to fishers who are working in an employment relationship²¹ (i.e. not the full scope of the Convention, see van der Zwan 2018, p.30).

2.1.2. EU legislation

This section describes the EU’s legal instruments dealing with the training of fishers, both directly and indirectly. In his analysis, van der Zwan (2018) argues that there is considerable room for interpretation in some instruments, making it challenging to pinpoint where the EU has fulfilled their duties in ensuring the safety of fishers at sea – and, arguably, where the EU has neglected them. Van der Zwan report’s sections *‘The competences of the Union’* (p.47) and *‘The competences of the social partners’* (p.50) are referred here to understand the governance of training and certification in the EU fisheries sector. The viewpoints expressed reflect the opinions of the fishing sector, which do not necessarily align with those of the European Commission.

The Treaty on the Functioning of the European Union (TFEU)

Van der Zwan (2018) identified four sections in the Treaty on the Functioning of the European Union (TFEU) with relevance to the topic of safety at sea:

First, the Union’s fisheries policy is laid down in Part Three, Title III, of the TFEU. Safety at sea is not one of the objectives of the fisheries policy that was envisioned by the EU upon its creation^{22,23} (van der Zwan, 2018). However, Regulation (EU) No 1380/2013 on the CFP does include provisions which indirectly pertain to safety at sea – i.e. given the implicit obligation to observe Flag State duties as a contracting party to UNCLOS. Any Union fishing vessel may, in principle, be operated in the waters of

²¹ Point 14 of the preamble to the Directive: ‘The Agreement applies to fishermen working in any capacity under a contract of employment or in an employment relationship on board fishing vessels engaged in sea fishing, flying the flag of a Member State or registered under the plenary jurisdiction of a Member State’.

²² ‘The Treaty on the Functioning of the European Union (TFEU), as a result of the Lisbon Treaty, was developed from the Treaty establishing the European Community (TEC or EC Treaty), as put in place by the Treaty of Maastricht. The EC Treaty itself was based on the Treaty establishing the European Economic Community (TEEC), signed in Rome on 25 March 1957. [...]’ See <https://eur-lex.europa.eu/EN/legal-content/summary/treaty-on-the-functioning-of-the-european-union.html>.

²³ See van der Zwan (2018), p. 32.

other Member States (Part II, Article 5 of Regulation (EU) No 1380/2013), and in the EEZs of third countries, where Sustainable Fisheries Partnership Agreements are in place and where a fishing authorisation has been issued to the vessel (Part VI, Title II, Article 31). Van der Zwan (2018) considers that the argument of '*limited relevance*' of Flag State duties in the case of fishing does not hold, and that instead Member States have the obligation to observe Flag State duties under international law for their entire fishing fleets.

Second, the Union's transport policy is laid down in Part Three, Title VI, of the TFEU. Article 91, paragraph 1(c) stipulates that the European Parliament and the Council shall lay down measures to improve maritime safety.

Third, the social policy of the Union is laid down in Part Three, Title X of the TFEU. Article 153, paragraph 1(a) stipulates that the Union shall support and complement '*the improvement in particular of the working environment to protect workers' health and safety*'. Furthermore, paragraph 4 of the same Article establishes that Member States are free to maintain or introduce more stringent protective measures, compatible with the Treaties [of the European Union]²⁴. As we will see further on, Article 153 of the TFEU, in tandem with Article 155, is invoked by the social partners as the main legal basis for the transposition of STCW-F into Union law.

Fourth, the Union's policy on education, vocational training, youth, and sport is laid down in Part Three, Title XII of the TFEU. However, its relevance to improving safety at sea is minimal. Van der Zwan (2018) concludes: '*The policy does not aim at improvement of the working environment to protect workers' safety and health, nor does it aim at harmonisation of education or vocational training between the Member States.*'

Medical treatment on board vessels: Directive 92/29/EEC

The legal basis for Council Directive 92/29/EEC²⁵ of 31 March 1992 on the minimum safety and health requirements for improved medical treatment on board vessels, is laid down in Article 153, paragraph 1(a) of the TFEU. The Directive applies to 'workers', which is defined as '*any person carrying out an occupation on board a vessel, including trainees and apprentices, but excluding port pilots and shore personnel carrying out work on board a vessel at the quayside*'. This means that fishers who are not in an employment relationship, such as self-employed fishers and fishers paid under crew-shares remuneration systems are included (van der Zwan 2018).

Directive 92/29/EEC governs safety on board by setting provisions on medicines and medical equipment on board, as well as provisions on basic medical and emergency training. A difference is made between training for crew and training for the captain and/or to whom the captain has delegated the task of using and applying medical supplies. In the latter case, the Directive stipulates that the training must be updated periodically (at least every five years) (Article 5, subparagraphs 2 and 3 of the Directive).

Work on board fishing vessels: Directive 93/103/EC

The legal basis of Council Directive 93/103/EC²⁶ of 23 November 1993 concerning the minimum safety and health requirements for work on board fishing vessels is Article 153, paragraph 1(a) of the TFEU. The Directive also applies to 'workers' following the definition above, meaning that it includes self-employed and crew-shares fishers. Among other provisions, Directive 93/103/EC lays out specific

²⁴ see <https://www.civitas.org.uk/content/files/OS.7.Treaties.pdf> for an overview of these Treaties.

²⁵ <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A31992L0029>

²⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A31993L0103>

requirements for the training of workers, as well as detailed training for persons likely to command a fishing vessel (van der Zwan 2018):

'Workers' training shall cover firefighting, the use of lifesaving and survival equipment, the use of fishing gear and hauling equipment, and the use of various types of signs including hand signs' and

'Training for persons likely to command a fishing vessel shall be given detailed training on (1) the prevention of occupational illness and accidents on board and the steps to be taken in the event of an accident, (2) stability and maintenance of the fishing vessel while loading and during fishing operations, and (3) radio navigation and communications, including procedures.'

Implementation of the Torremolinos Convention: Directive 97/70/EC

The legal basis of Council Directive 97/70/EC²⁷ of 11 December 1997 setting up a harmonised safety regime for fishing vessels of 24 metres in length and over' is Article 100, paragraph 2 of the TFEU²⁸.

This Directive finds its origins in the Torremolinos Convention for the Safety of Fishing Vessels of 1977, as amended by the 1993 Torremolinos Protocol. As such, Directive 97/70/EC effectively implements the Torremolinos Protocol into EU law, including its standards for practising musters and drills, on board training and instructions, and training of emergency procedures. The rationale and the scope for the implementation of a harmonised safety regime for fishing vessels is laid out in 22 points in the preamble to the Directive. For the present study, it suffices to focus on a couple of key points:

- Point 3: *'Whereas the enforcement of this Protocol at Community level for fishing vessels flying the flag of a Member State or operating in the internal waters or territorial sea of a Member State or landing their catch in a port of a Member State will enhance the safety of such fishing vessels as various national legislations do not yet require the safety level established by the Protocol; whereas such a common safety level will, by harmonising the different and varying national safety requirements, ensure that competition will take place on an equal level for fishing vessels operating in the same area without compromising safety standards'; and*
- Point 6: *'Whereas several important chapters of the Torremolinos Protocol apply only to fishing vessels of 45 metres in length and over; whereas limiting the application of the Protocol at Community level only to such vessels would create a safety gap between the latter and smaller fishing vessels between 24 and 45 metres in length, and would therefore distort competition.'*

The scope of the Directive is hence broader than that of the Torremolinos Convention since it includes certain provisions that the Convention only requires for vessels over 45 m in length. Furthermore, and in line with the Torremolinos Convention, the Directive does not require the establishment of an *'appropriate working language'* to ensure effective crew performance in safety matters. Under the IMO *'International Convention for the Safety of Life at Sea, 1974'* (SOLAS) (i.e. the seafaring equivalent of the Torremolinos Convention), each seafarer is required to understand and, where appropriate, give orders and instructions and to report back in that working language (van der Zwan 2018).

Implementation of the Work in Fishing Convention, C188: Directive 2017/159

The full name of Directive 2017/159²⁹ is Council Directive (EU) 2017/159 of 19 December 2016 implementing the Agreement concerning the implementation of the Work in Fishing Convention, 2007

²⁷ <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A31997L0070>

²⁸ Van der Zwan (2018) points out that this must be understood in the light of Article 91, paragraph 1(c) of the TFEU: "For the purpose of implementing [a common transport policy], and taking into account the distinctive features of transport, the European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee and the Committee of the Regions, lay down: [...] measures to improve transport safety".

²⁹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32017L0159>

of the International Labour Organization, concluded on 21 May 2012 between the General Confederation of Agricultural Cooperatives in the European Union (COGECA), the European Transport Workers' Federation (ETF) and the Association of National Organisations.

Van der Zwan (2018) identifies the legal basis for this Directive as Article 155, paragraph 2, of the TFEU. The Article provides for agreements between the social partners at Union level to be transposed into Union law by means of a Council decision on a proposal from the European Commission, provided the agreement deals with matters covered by Article 153 of the TFEU.

The Directive sets minimum standards for living and working conditions on board fishing vessels. It applies to fishers who are (a) employed, (b) work in an employment relationship, or (c) other fishers who are present on the same vessel with fishermen referred to under (a) or (b). However, the scope of the Directive is narrower than that of the C188 convention given that it only covers fishing vessels operating commercially at sea. Subsistence fishing and recreational fishing are thus excluded from the scope of the Directive.

Although this Directive explicitly requires fishermen to be trained, it does not set standards with regard to training and certification. Indirect references to certification and training are present, as pointed out by van der Zwan (2018, pp.28-39). Van der Zwan emphasises also the importance of this Directive for the governance of fishers' training in the EU:

'It is important to recognise that, through this Directive, under Union law, Member States are now forced to adopt legislation on training and certification of fishermen before 15 November 2019; even for fishermen working on board of fishing vessels less than 24 metres in length. In view of their flag State duties, the FAO Code of Conduct for Responsible Fisheries and the ILO Work in Fishing Recommendation, that legislation should be based on available international standards adopted in this field.'

The Professional Qualifications Directive 2005/36/EC

The recognition of professional qualifications between Member States is governed by Directive 2005/36/EC³⁰ of the European Parliament and of the Council of 7 September 2005. The legal basis for this Directive is defined by Articles 46, 53 (paragraph 1), and 62 of the TFEU pertaining to the free movement of persons and services. This Directive is discussed in detail in this study in section 2.2.1.

Authorising Member States to become party to STCW-F: Decision (EU) 2015/799

The full name of Decision (EU) 2015/799 is Council Decision (EU) 2015/799 of 18 May 2015 authorising Member States to become party, in the interest of the European Union, to the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, of the International Maritime Organization. It authorises Member States to become party to STCW-F 'in respect of those parts that fall under the competence of the Union' (Article 2 of the Decision). The legal basis is provided by Articles 46, 53, and 62 of the TFEU – i.e. on the basis of 'free movement of persons and services'³¹.

It should be noted here that Chapter I, Regulation 7 of the Annex to the Convention falls within the exclusive competence of the Union. The provisions in this chapter pertain to the '*rules of the Union on the recognition of professional qualifications held by certain categories of fishing vessel personnel*'. It affects, in particular, provisions in the TFEU and in Directive 2005/36/EC.

Council Decision (EU) 2015/799 thus forms the legal basis for the implementation of STCW-F by EU Member States. The Decision authorises EU Member States to become party to the Convention, which

³⁰ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32005L0036>

³¹ The same Articles form the legal basis of Directive 2005/36/EC.

is needed because certain provisions in the Convention fall within the exclusive competence of the EU. Despite this instrument, and the sense of urgency it conveys, widespread ratification of the Convention has not happened to date³².

Implementation of the STCW Convention: Directive (EU) 2022/993

The full name of this Directive is Directive (EU) 2022/993³³ of the European Parliament and of the Council of 8 June 2022 on the minimum level of training of seafarers (codification) (Text with EEA relevance). It repeals Directive 2008/106/EC, which was a recast of the original directive implementing the International Convention on Standard of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW), i.e. Directive 94/58/EC of 22 November 1994³⁴. Its legal basis is Article 100, paragraph 2, of the TFEU:

'the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may lay down appropriate provisions for sea and air transport. They shall act after consulting the Economic and Social Committee and the Committee of the Regions'.

It must be understood in the light of Article 91, paragraph 1(c), which stipulates that the Parliament and the Council shall lay down measures to improve transport safety. For this, they must consult with the Economic and Social Committee and the Committee of the Regions.

Mutual recognition of seafarers' certificates: Directive (EU) 2019/1159

The full name of this Directive is Directive (EU) 2019/1159³⁵ of the European Parliament and of the Council of 20 June 2019 amending Directive 2008/106/EC on the minimum level of training of seafarers and repealing Directive 2005/45/EC on the mutual recognition of seafarers' certificates issued by the Member States (Text with EEA relevance). It repeals Directive 2005/45/EC of the European Parliament and of the Council of 7 September 2005 on the mutual recognition of seafarers' certificates issued by the Member States and amending Directive 2001/25/EC (Text with EEA relevance). Again, its legal basis is Article 100, paragraph 2, of the TFEU. This Directive complements Directive 2005/36/EC by introducing modifications and updates to the original text of Directive 2005/36/EC. These changes are designed to modernise and simplify the recognition process, remove barriers to the free movement of professionals, and enhance the quality and safety of professional practice within the EU.

Other EU Directives

Van der Zwan (2018) identified additional EU Directives that pertain to safety and health at work (e.g. Council Directive of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (89/391/EEC)), however their relevance for the present study is deemed limited.

2.1.3. Different pathways for STCW-F implementation: the social partners and the European Commission

Given that the EU itself is not party to any of the three safety conventions related to fishing (Torremolinos 1977, STCW-F 1995, and the ILO Work in Fishing Convention C188 of 2007), for the provisions of these conventions to take effect under EU law, they must be implemented by EU instruments, such as Council Directives. Implementation is ensured for two of the three conventions;

³² see the points highlighted by van der Zwan (2018) on p. 41.

³³ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32022L0993>

³⁴ This Directive was replaced by Directive 2001/25/EC of 4 April 2001, which was then replaced by Directive 2008/106/EC of 19 November 2008. The latter was updated by Directive 2012/35/EU of 21 November 2012 before being repealed by Directive (EU) 2022/993 of 8 June 2022.

³⁵ <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32019L1159>

since Torremolinos and C188 are transposed into Union law through, Council Directive 97/70/EC and Council Directive 2017/159 respectively. However, major gaps remain. Torremolinos only applies to fishing vessels over 24 m, leaving the majority of the EU fishing vessels unregulated in respect to construction, equipment and seaworthiness (van der Zwan 2018). Similarly, C188 applies only to fishers who are in an employment relationship (i.e. not to self-employed fishers or fishers whose salary is a share proportional to the landings sales).

Implementation through a Directive is not the only pathway towards a common standard for training and certification in the EU fishing industry. Arguably, if widespread ratification of the STCW-F Convention by EU Member States is accomplished, implementation of the convention by the Member States' national administrations will ensure a common standard. In that case, the nature of the 'standard' could be different when this standard is not based on the provisions of STCW-F. Any Member State that chooses to go beyond what is required by STCW-F would disrupt such a standard. Second, as the social partners argue, a *de facto* EU standard based on STCW-F would be less effective from an enforcement perspective since enforcement at the international level is more complicated than at the EU level (see interview with ETF member in Annex III).

The implementation of the STCW-F Convention through a Directive is the preferred pathway of the social partners, while the European Commission supports the ratification process. However, the Commission is, in principle, not opposed to exploring the pathway of transposing the STCW-F Convention through a directive (European Commission 2023b).

The legal basis invoked by the social partners for the implementation into EU law is Article 155, paragraph 2, of the TFEU. The Article provides for agreements between the social partners at EU level to be transposed into Union law by means of a Council Decision on a proposal from the European Commission, provided the agreement deals with matters covered by Article 153 of the TFEU. However, in the conclusions section of his study, van der Zwan (2018) appeals to the European Commission to include a proposal for a Directive as part of its work programme for 2019 (i.e. without the need to go via the social partners), considering this pathway to be more 'swift'. It is important to note that it never came to an official agreement between the social partners. In the interview conducted for this study, Ment van der Zwan states: *'We did not spend time drawing up an agreement, knowing that the European Commission did not support us. We wanted to do it, however, and my report even includes suggestions on how we would have tackled it'* (see Annex III).

2.2. EU framework for the recognition of professional qualifications

KEY FINDINGS

- The recognition of professional qualifications of fishers wishing to exercise their profession in another Member State, is governed by Directive 2005/36/EC, or the '**Professional Qualifications Directive**'.
- Whereas a special regime exists for **seafaring professions** within the Professional Qualifications Directive, this is not the case for **fishing professions**.
- The EU's Regulated Professions Database currently contains **46 regulated fishing professions** spread over 16 generic categories.
- The current **procedure for the recognition of professional qualifications** is based on applications submitted by qualified individuals. Their qualifications are tested by the competent authority in the host Member State, after which a decision is communicated. Additional requirements such as an adaptation period and/or an aptitude test may apply.

2.2.1. Directive 2005/36/EC and its application to the fishing sector

The recognition of professional qualifications between Member States is governed by Directive 2005/36/EC³⁶ of the European Parliament and of the Council of 7 September 2005 (also known as the Professional Qualifications Directive). The Directive replaces Council Directive 89/48/EEC, published on 21 December 1988. Since its first publication in 2005, Directive 2005/36/EC has been amended 15 times, in relation to events such as the accession of new Member States to the EU, Brexit, and the progressive enlargement of the scope of the Directive.

Directive 2005/36/EC sets the rules for (a) temporary mobility (also referred to as Temporary Provision of Services or TPS), (b) establishment in another EU country, (c) systems of recognition, (d) knowledge of languages, and (e) professional academic titles. The temporary mobility scheme allows professionals to work in another EU country on the basis of a declaration made in advance³⁷. Meanwhile, establishment as an employed or self-employed person in a country other than where the person has received their professional qualification is governed by another set of rules.

The Directive sets the rules for recognition of '**regulated professions**', defined as:

'a professional activity or group of professional activities, access to which, the pursuit of which, or one of the modes of pursuit of which is subject, directly or indirectly, by virtue of legislative, regulatory or administrative provisions to the possession of specific professional qualifications' (Article 3(1)a of Directive 2005/36/EC).

It is important to note that a profession may be regulated in one Member State, but not in another. The European Commission established a database on professional access requirements (Regulated Professions Database) across the EU to assist EU citizens wishing to carry out their profession in another Member State³⁸.

³⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32005L0036>

³⁷ The implementation of such prior check by Member States is optional and may not apply to all professions (see <https://ec.europa.eu/docsroom/documents/15033/attachments/1/translations> for a score board by country). Article 7(4) of the Directive allows Member States to provide for a prior check of qualifications for professions having public health or safety implications.

³⁸ Regulated Professions Database: <https://ec.europa.eu/growth/tools-databases/regprof/home>.

The Regulated Professions Database is non-exhaustive and currently contains 6 692 regulated professions corresponding to 562 generic names of professions – i.e. the generic category of the profession in English. Most regulated professions are medical professions, but also include professional activities that pertain to public health, safety (e.g. fisherman, vehicle inspector, train driver, etc.), and public order (e.g. schoolteacher, special needs teacher, child care worker, etc.).

In the case of fishing professions, there are numerous regulated and non-regulated professions, some of which are not exclusive to the fishing industry. For example, the generic name of 'Fisherman' contains 14 professions across seven Member States. (Table 1) In Belgium, for instance, several fishing professions fall under the generic profession of 'Navigational watch' (which is in fact a generic seafaring profession).

Table 1: Regulated professions under the generic profession name 'fisherman' in the EU Regulated Professions Database.

Member State	Regulated profession	English translation
Denmark	Fisker og fiskeskipper	Fisherman and master of a fishing vessel
Estonia	Rannakalur	Coastal fisherman
France	Capitaine de navire de pêche	Master on fishing vessel
	Chef mécanicien sur les navires de pêche	Chief engineer officer on fishing vessels
	Officier chargé du quart à la machine sur les navires de pêche	Officer in charge of an engineering watch
	Officier chargé du quart à la passerelle sur les navires de pêche	Officer in charge of a navigational watch
	Second capitaine de navire de pêche	Chief mate on fishing vessel
	Second mécanicien sur les navires de pêche	Second engineer officer on fishing vessel
Poland	Rybak rybołówstwa morskiego	Able Fisherman - seagoing Fishing
	Starszy rybak rybołówstwa morskiego	Fisherman of seagoing fishing
Portugal	Marinheiro Pescador	Able seaman (fisheries)
	Pescador	Fisherman
Slovenia	Ribič	Fisherman
Spain	Marinero de pesca	Fishing seaman

Data source: Regulated Professions Database.

For regulated professions, a procedure for the recognition of professional qualifications is initiated by the EU citizen wishing to work in a Member State other than the Member State where they received

their qualifications. Different pathways apply, depending on the duration of the activity, as well as other provisions related to public health, safety, and public order. In the case of temporary mobility (TPS), a prior check of qualifications may be required for professions having public health or safety implications (Article 7(4), see also Box 1). This check is indeed often required by the competent authorities of Member States. Non-regulated professions may be carried out without a recognition procedure³⁹.

For certain professions, the recognition of professional qualifications is governed by specific legislation. The recognition mechanisms of Directive 2005/36/EC in principle do not apply to these professions, although in some cases, the recognition mechanisms of Directive 2005/36/EC may apply on a secondary basis. This specific legislation exists for the training of sailors and seafarers, excluding fishers⁴⁰. The conditions required for the delivery of a certificate of competence include a minimum age, theoretical knowledge, practical skills, and a certain length of service at sea. This special regime for seafarers is governed by Directive (EU) 2022/993 (implementation of the STCW Convention into Union law) and Directive (EU) 2019/1159 (mutual recognition of seafarers' certificates) (see section 2.1.2).

2.2.2. Recognition of professional qualifications: Directive 2005/36/EC

This section provides an account of the Directive 2005/36/EC with a focus on the provisions that concern professions in the fishing sector.

The recognition of professional qualifications (i.e. professional experience and level of qualification) is regulated in three basic ways, depending on the type of profession and the protocols and procedures that are in place for their regulation. First, there is a general system that applies to most regulated professions (see Title III, Chapter II of Directive 2005/36/EC). In this system, the recognition procedure is initiated on demand of the applicant, i.e. on a case-by-case basis. Second, a small number of professions are covered by specific protocols and procedures described in sectoral directives⁴¹ (e.g. doctor of medicine, nurse responsible for general care, dental practitioner, veterinary surgeon, midwife, pharmacist, architect). The recognition of these professions is automatic, on the basis of coordination of minimum training conditions (see Title III, Chapter III of Directive 2005/36/EC, Sections 1 to 8). A third system applies to professionals working in the craft, commerce, or industry sectors. In this system, certain professions such as carpenters, upholsterers, beauticians may qualify for automatic recognition on the basis of professional experience. For other professions, recognition of professional experience follows the general system described above.

Like most professions, professional activities related to fishing are governed by the general system. The rules governing the recognition of professional qualifications between Member States is based on two aspects: professional experience and formal levels of qualification.

Professional experience

Article 16 of the Directive stipulates that the host Member State '*shall recognise previous pursuit of the activity in another Member State as sufficient proof of [professional] knowledge and aptitudes*'. For the profession of fisher, Article 18 applies (activities referred to in List II of Annex IV of the Directive), laying out the conditions for recognition. It stipulates how the activity must have been previously pursued. Directive 2005/36/EC states:

³⁹ In the case of non-regulated professions, the burden is on the employer to ask proof of the necessary qualifications.

⁴⁰ https://single-market-economy.ec.europa.eu/single-market/services/free-movement-professionals/recognition-professional-qualifications-practice/professions-falling-under-specific-legislation_en

⁴¹ Note that these directives are no longer in force, as they have been repealed by Directive 2005/36/EC.

- (a) for five consecutive years on a self-employed basis or as a manager of an undertaking, or*
- (b) for three consecutive years on a self-employed basis or as a manager of an undertaking, where the beneficiary proves that [they have] received previous training of at least three years for the activity in question, evidenced by a certificate recognised by the Member State or judged by a competent professional body to be fully valid, or*
- (c) for four consecutive years on a self-employed basis or as a manager of an undertaking, where the beneficiary can prove that [they have] received, for the activity in question, previous training of at least two years' duration, attested by a certificate recognised by the Member State or judged by a competent professional body to be fully valid, or*
- (d) for three consecutive years on a self-employed basis or as a manager of an undertaking, if the beneficiary can prove that [they have] pursued the activity in question on an employed basis for at least five years, or*
- (e) for five consecutive years on an employed basis, if the beneficiary can prove that [they have] received, for the activity in question, previous training of at least three years' duration, as attested by a certificate recognised by the Member State or judged by a competent professional body to be fully valid, or*
- (f) for six consecutive years on an employed basis, if the beneficiary can prove that [they have] received previous training in the activity in question of at least two years' duration, as attested by a certificate recognised by the Member State or judged by a competent professional body to be fully valid.*

In cases (a) and (d) the end of the activity must be less than 10 years before the date on which the complete application was submitted by the person concerned to the competent authority.

Level of qualification

In Article 11, the Directive considers five levels of qualification:

- 1) An attestation of competence (Art. 11(a)) issued by the home Member State on the basis of either (a) a training course not forming part of a certificate or diploma, (b) a specific examination without prior training, (c) full-time pursuit of the profession in a MS for three consecutive years or for an equivalent duration on a part-time basis during the previous 10 years. Alternatively, an attestation of competence may also be delivered on the basis of general primary or secondary education, attesting that the holder has acquired general knowledge.*
- 2) A certificate attesting to a successful completion of a secondary course (Art. 11(b)). Two pathways are distinguished. First, the course can be general in character, supplemented by a course of study or professional training and/or by probationary or professional practice required in addition to that course. Second, the course can be technical or professional in character, supplemented where appropriate by the same elements mentioned for the first pathway.*
- 3) A diploma (Art. 11(c)) certifying successful completion of:*
 - a) Training at post-secondary level of a duration of at least one year (or of an equivalent duration on a part-time basis). Additional professional training may be required.*

Box 1: Article 7 of Directive 2005/36/EC.

Article 7 lays down the rules for informing the competent authority in the host MS about the wish to carry out services there under temporary mobility ('Declaration to be made in advance, if the service provider moves'). Article 7(1) reads:

'Member States may require that, where the service provider first moves from one Member State to another in order to provide services, he shall inform the competent authority in the host Member State in a written declaration to be made in advance including the details of any insurance cover or other means of personal or collective protection with regard to professional liability'.

Article 7.2 details any additional documents which may be required by the competent authority of the host MS to make a decision, and Article 7.3 further stipulates that the professional title recognised in the host MS must be used, if it exists. In other words, a service provider may carry out their profession in another MS, provided that they inform the competent authority of that MS about this. As such, the check of qualifications happens in parallel to the provision of services. However, when the profession is associated with health and/or safety risks, a prior check of qualifications is required (i.e., before any services may be provided) (Article 7(4)).

The decision categories in the Regulated Professions Database refer to specific paragraphs of Article 7.4:

- *Paragraph 2: 'Within a maximum of one month of receipt of the declaration and accompanying documents, the competent authority shall endeavour to inform the service provider either of its decision not to check his qualifications or of the outcome of such check [...].'*
- *Paragraph 3: 'Where there is a substantial difference between the professional qualifications of the service provider and the training required in the host Member State, to the extent that that difference is such as to be harmful to public health or safety, the host Member State shall give the service provider the opportunity to show, in particular by means of an aptitude test, that he has acquired the knowledge or competence lacking [...].'*

Analysis of regulated fishing professions in the EU has shown that only three countries (France, Ireland, and Portugal) require such a prior check. While in France and in Ireland this applies to all regulated fishing professions, in Portugal this only applies to some qualifications. However, data differ between different sections of the Regulated Professions Database. The part that contains data on mobility suggests that the competent authority in Spain also employs Article 7.4. By contrast, this is not indicated in the part that describes the regulated professions.

- b) *Vocational training with a special structure⁴², with competences going beyond what is provided for in point 2. The level of training is considered equivalent to that in point 3a, if it provides a comparable professional standard and prepares the trainee for a comparable level of responsibilities and functions provided that the diploma is accompanied by a certificate from the home Member State.*
- 4) *A diploma certifying that the holder has successfully completed training at post-secondary level of at least three and not more than four years' duration (Art. 11(d)) (or of an equivalent duration on a part-time basis) at a university or establishment of higher education, and, where appropriate, that they have successfully completed the professional training required in addition to the post-secondary course.*

⁴² Note that here only the requirements for regulated professions are included.

- 5) *A diploma certifying that the holder has successfully completed a post-secondary course of at least four year's duration (Art. 11(e)) (or of an equivalent duration on a part-time basis) at a university or establishment of higher education, and, where appropriate, that they have successfully completed the professional training required in addition to the post-secondary course.*

A wide range of certificates and diplomas in the fishing sector encompassing most of these qualifications levels are currently available (see below).

2.2.3. Recognition of professional qualifications by the host Member State

Attestations of competence or evidence of formal qualifications are issued by a competent authority in a Member State, designated in accordance with the laws, regulations, and administrative provisions of that Member State. Competent authorities are responsible to take a decision when a professional from another Member State wants to practise this regulated profession. In case of provision of service, the declaration – if required on the basis of Article 7 – must be sent to this authority prior to the provisioning of services. For any regulated profession, the competent authority by Member State can be found in the Database on Regulated Professions⁴³.

The host Member State shall accept the level attested by the home Member State, as well as the [accompanying] certificate by which the home Member State certifies that vocational training with a special structure is equivalent to the level provided in point c(i) of Article 11. In addition, the ruling by a competent authority in any Member State is accepted as sufficient proof that the holder has the same rights of access to or the pursuit of a profession (as apply to the nationals of that Member State).

Article 14 of the Directive stipulates that the host Member State may require the applicant to complete an adaptation period of up to three years, or to take an aptitude test if:

- (a) *The training the applicant has received covers substantially different matters than those covered by the evidence of formal qualifications required in the host Member State;*
- (b) *The regulated profession in the host Member State comprises one or more regulated professional activities which do not exist in the corresponding profession in the applicant's home Member State, and the training required in the host Member State covers substantially different matters from those covered by the applicant's attestation of competence or evidence of formal qualifications.*

Member States shall ensure that an applicant has the possibility of taking the aptitude test not later than six months after the initial decision imposing an aptitude test on the applicant. The host Member State must offer the applicant the choice between an adaptation period and an aptitude test. Only under specific conditions⁴⁴ can a Member State deny the applicant's right to choose, and impose either the completion of an adaptation period, or an aptitude test – or both. Any such decision taken by the host Member State must be duly justified and motivated to the applicant. Member States must guarantee that the applicant can take the aptitude test within six months from the initial decision imposing an aptitude test on the applicant. These compensation measures are highly relevant for the EU fishing sector. The complexity in the fishing sector is that specific competencies vary enormously related to a range of factors such as the area of fishing, the vessel's size and engine power, etc. which are country and context-specific.

⁴³ Database on Regulated Professions: <https://ec.europa.eu/growth/tools-databases/regprof/home>

⁴⁴ We refer to paragraphs 1 to 5 of Article 14 of Directive 2005/36/EC for an overview of conditions tied to this derogation.

2.3. Mutual recognition of fishers' certificates: analysis of the current state of play

KEY FINDINGS

- The study identified 46 regulated professions, giving access to **78 actual professions** in six categories: skipper/master (24 professions), chief/first mate (6 professions), mate/second hand (8 professions), engineer (28 professions), seaman (10 professions), various (2 professions).
- Required **levels of qualification vary greatly**, both within and between profession categories and countries. Diversity in qualification pathways is especially high for skipper professions.
- In the period 1997-2022, 1740 decisions for **fishers' mobility** were processed, of which 82% were assessed positively. The year 2018 had the highest number of positive decisions concerning mainly temporary mobility from France and Portugal to Spain, and establishment of Spanish fishers in Portugal.
- Portugal, France, Spain, and Denmark accounted for 97% of mobility. Similarly, three host countries were responsible for 89% of decisions (Spain, Portugal, and Poland). These are countries which have **already ratified STCW-F**.
- Applications for **recognition** were mostly for the categories seaman (deckhand) (41%) and skipper (30%). From 2014 onwards, the share of engineering professions increases.

The free movement and mobility of fishers in the EU depends on the efficiency of the system of recognition of certificates of competency among Member States. Since 2019, the EU Data Collection Framework (DCF⁴⁵) on social data provides information on the nationality of people employed in the EU fishing fleet, more specifically the number of national/EU/EEA/non-EU-EEA fishers (see STECF 2023). The data shows that of the 147 414 people employed by the European fishing fleet in 2017, 85.9% were nationals, 7.7% were non-EU/EEA, 3% were from other EU Member States and 0.1% were from EEA countries, while the nationality of 3.3% of them was unknown (Figure 1). Furthermore, the small-scale fisheries fleet was dominated by national labour as the non-nationals represented only 5% of the total people employed, while 20% and 56% of the fishers were non-nationals in the large-scale fisheries and distant water fleets respectively (STECF 2023).

2.3.1. The EU Regulated Professions Database: scope and analysed elements

Three types of analysis were conducted based on data extracted from the Regulated Professions Database and mobility data:

- A list of regulated professions in the EU fishing sector, organised by country. Elements used in the analysis were the type of recognition system, qualification level, prior check of qualifications under Article 7(4) of the Qualifications Directive, activities included.
- A classification of regulated fishing professions based on activities and scope limitations. Elements used in the analysis were generic name of the profession, name of the regulated

⁴⁵ https://dcf.ec.europa.eu/index_en

profession, activities (actual professions) the certificate gives access to, restrictions and limitations associated with them.

- A quantitative analysis of fisher mobility in the EU through the mutual recognition of fishers' certificates. Elements used in the analysis were the number of decisions by the host Member States for different categories (and by home Member State) between 1997 and 2022, the nature of the decisions, and compensation measures required.

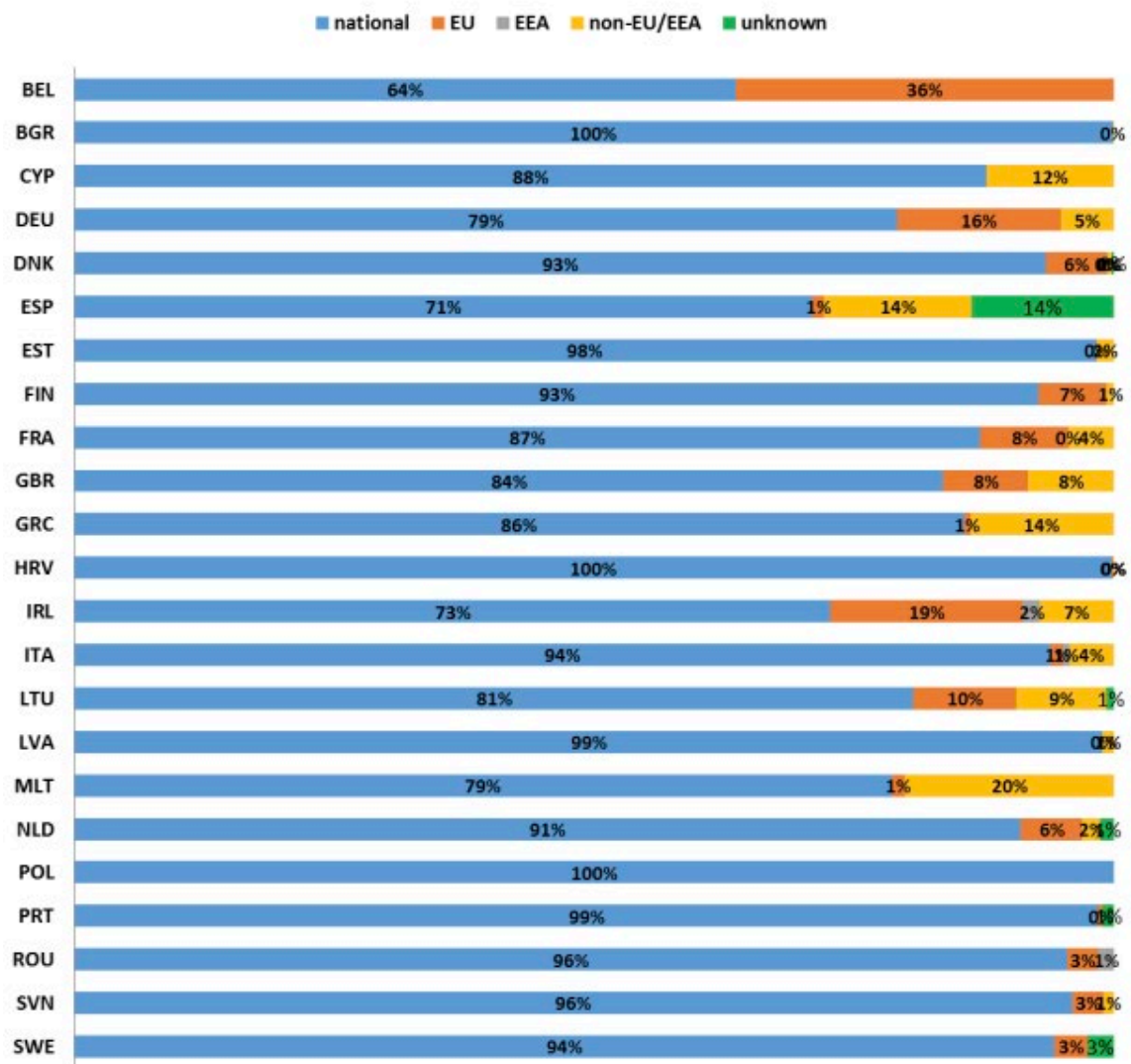
From 22 EU Member States covered in this study, 'fishing' was regulated in 10 (Table 2). However, based on the available data, it cannot be ruled out that certain fishing professions are regulated in the Member States not included in the analysis (Bulgaria, Croatia, the Republic of Cyprus, Finland, Germany, Greece, Italy, Latvia, Lithuania, Malta, Romania, and Sweden). The method followed was to browse the entire database for generic profession names related to fishing. Generic professions related to fishing outside the EU (UK, Iceland and Norway) were excluded from the analysis. However, not all regulated fishing professions could be recognised as such based on the generic name. This is clearly the case for Belgium, for instance, where fishing professions fall under the generic profession 'Navigational Watch' (i.e. with no reference to fishing). Similarly, it is possible that certain professions for the aforementioned countries were missed.

Table 2: Professions included in the classification and analysis of fishers' mobility for the study.

Generic name of the profession	No. of professions in the database	No. retained for analysis
Chief engineer class I fishing vessel	5	2
Deck officer and engineer class VI, fishing fleet	1	1
Deck officer class I fishing vessel	2	1
Deck officer class II fishing vessel	5	3
Deck officer second hand fishing fleet	2	2
Deep-sea fishing vessel skipper	2	2
Engineer fishing fleet	1	1
Engineer officer class III (fu) fishing fleet	1	1
Fisherman	14	14
Inshore fishing vessel skipper	8	4
Local fishing vessel skipper	2	1
Navigational watch	4	1
Second engineer class II, fishing vessel	2	2
Ship's mechanic	3	1
Skipper/deck officer fishing fleet	12	8

Note: certain professions belonging to Iceland, Norway and the UK were excluded from the analysis. Notation of the professions as in the Regulated Professions Database-

Data source: <https://ec.europa.eu/growth/tools-databases/regprof/home>.

Figure 1: Nationality of people employed in the EU fishing fleet by Member State.

Source: STECF Social Data in Fisheries (STECF 23-17).

2.3.2. Regulated professions in the EU fishing sector

According to the Regulated Professions Database, a profession is said to be regulated when access and exercise is subject to the possession of a specific professional qualification. The fishing professions are classified in 15 clusters of 'generic professions' in the database. Generic professions are described as 'headings under which the regulated professions in the respective countries are grouped together'⁴⁶.

The Regulated Professions Database yielded a total of 46 regulated professions for the EU fishing sector, in 10 Member States. Table 3 shows the regulated fishing professions, the qualifications they require, and the system of recognition they follow.

The 'General System of Recognition – Primary Application' applies to all of the professions identified. In other words, qualifications are recognised based on certificates of professional competence, and not automatically, nor based on professional experience. However, the amount of professional experience

⁴⁶ The following example is given on the website: 'The following regulated professions are grouped together under the generic name of 'Tourist Guide': 'Guide touristique' in France, 'Guide interprète régional', also in France, 'Guida turistica' in Italy.'

on board in specific categories of fishing vessels is sometimes used as a criterion by the competent authority of the host Member States when evaluating the applicant's request for recognition (see below section 2.3.4).

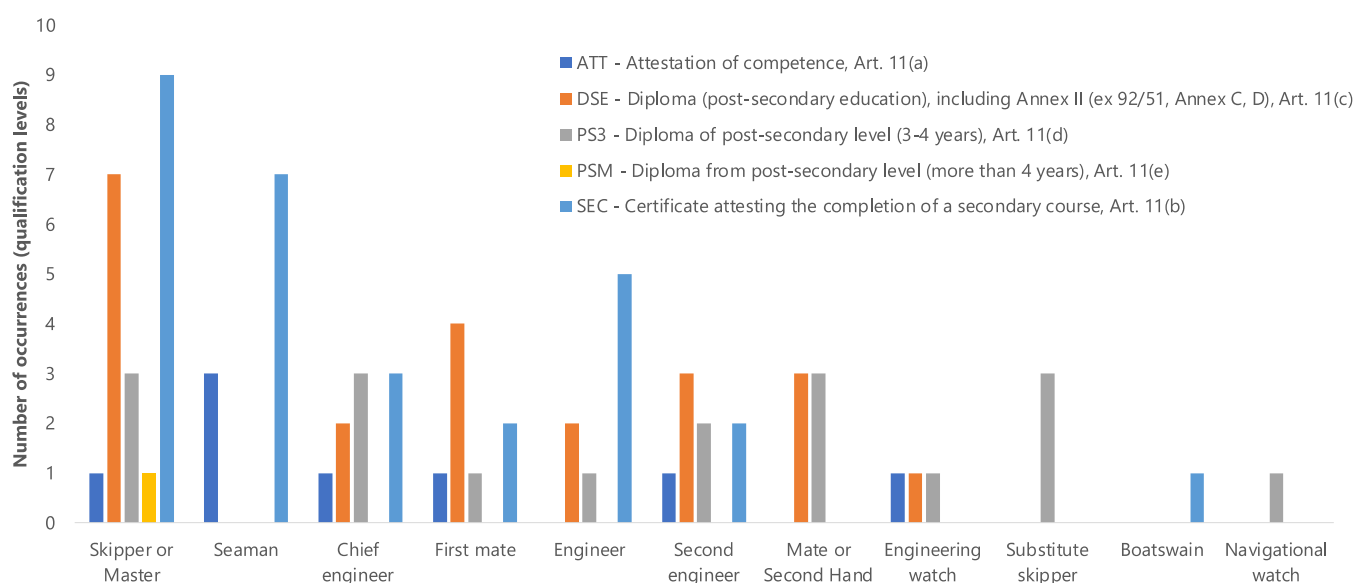
Five types of qualification pathways are found for fishing professions in the Member States studied, in ascending order of training requirements and/or educational progression (Table 3):

- SEC - Certificate attesting the completion of a secondary course, Art. 11(b) of Directive 2005/36/EC;
- ATT - Attestation of competence, Art. 11(a) of Directive 2005/36/EC;
- DSE - Diploma (post-secondary education), including Annex II (ex 92/51, Annex C, D), Art. 11(c) of Directive 2005/36/EC;
- PS3 - Diploma of post-secondary level (3-4 years), Art. 11(d) of Directive 2005/36/EC; and
- PSM - Diploma from post-secondary level (more than 4 years), Art. 11(e) of Directive 2005/36/EC

Most qualification levels are found across professions and countries. Only the PSM - Diploma from post-secondary level (more than 4 years) is exclusive to France. The most common level of qualification is the 'SEC - Certificate attesting the completion of a secondary course' (Figure 2).

As could be expected, the highest qualifications are required for functions on board that entail a higher degree of responsibility (skipper, first mate and mate, chief and second engineer). The second highest qualification, PS3, was only found in France and the Netherlands. Another important observation is the diversity in terms of qualifications in the category 'Skipper or Master' which is linked to the high diversity scope and field of application of the professions in this category (i.e. limitations with regard to vessel size, propulsion power, tonnage, fishing area, etc.).

Figure 2: Qualification levels for access to fishing professions in the studied Member States.



Data Source: Regulated Professions Database.

Note: The categories on the horizontal axis are the result of the analysis in section 2.3.3. The data include all 78 'actual professions' identified in this study. Actual professions refer to all functions, in the respective categories, that can be carried out by the holder of the qualification.

Table 3: Qualification levels required for the identified regulated professions.

Generic name	Profession name	MS	Qualification level
Chief engineer class I fishing vessel	Engineer officer class 1 (Fishing Sector)	IE	DSE – Diploma (post-secondary education), including Annex II (ex 92/51, Annex C, D), Art. 11(c)
	Chief engineer class 1 (fishing sector)	ES	DSE – Diploma (post-secondary education), including Annex II (ex 92/51, Annex C, D), Art. 11(c)
Deck officer and engineer class VI, fishing fleet	Mate-engineer deep-sea fishing	NL	PS3 – Diploma of post-secondary level (3-4 years), Art. 11(d)
Deck officer class I fishing vessel	Deck officer certificate of competency (fishing vessel) skipper full	IE	DSE – Diploma (post-secondary education), including Annex II (ex 92/51, Annex C, D), Art. 11(c)
Deck officer class II fishing vessel	Deck officer/skipper fishing fleet < 45 m (Master)	DK	DSE – Diploma (post-secondary education), including Annex II (ex 92/51, Annex C, D), Art. 11(c)
	Deck officer/skipper fishing fleet < 45 m (First Mate)	DK	DSE – Diploma (post-secondary education), including Annex II (ex 92/51, Annex C, D), Art. 11(c)
	Deck officer certificate of competency (fishing vessel) second hand full	IE	DSE – Diploma (post-secondary education), including Annex II (ex 92/51, Annex C, D), Art. 11(c)
Deck officer second hand fishing fleet	Deck officer certificate of competency (fishing vessel) second hand special	IE	DSE – Diploma (post-secondary education), including Annex II (ex 92/51, Annex C, D), Art. 11(c)
	Deck officer certificate of competency (fishing vessel) second hand limited	IE	DSE – Diploma (post-secondary education), including Annex II (ex 92/51, Annex C, D), Art. 11(c)
Deep-sea fishing vessel skipper	Deep-sea fishing vessel skipper	ES	DSE – Diploma (post-secondary education), including Annex II (ex 92/51, Annex C, D), Art. 11(c)
	Deep-sea fishing captain	ES	DSE – Diploma (post-secondary education), including Annex II (ex 92/51, Annex C, D), Art. 11(c)
Engineer fishing fleet	Naval engineer (fishing sector)	ES	SEC – Certificate attesting the completion of a secondary course, Art. 11(b)
	Local fishing vessel skipper	ES	SEC – Certificate attesting the completion of a secondary course, Art. 11(b)
Engineer officer class III fishing fleet	Engineer officer certificate of competency (fishing vessel) class 3	IE	DSE – Diploma (post-secondary education), including Annex II (ex 92/51, Annex C, D), Art. 11(c)
Fisherman	Second engineer officer on fishing vessel	FR	PS3 – Diploma of post-secondary level (3-4 years), Art. 11(d)
	Officer in charge of an engineering watch	FR	PS3 – Diploma of post-secondary level (3-4 years), Art. 11(d)
	Officer in charge of a navigational watch	FR	PS3 – Diploma of post-secondary level (3-4 years), Art. 11(d)
	Master on fishing vessel	FR	PSM – Diploma from post-secondary level (more than 4 years), Art. 11(e)

Generic name	Profession name	MS	Qualification level
	Fishing seaman	ES	ATT – Attestation of competence, Art. 11(a)
	Fisherman of seagoing fishing	PL	SEC – Certificate attesting the completion of a secondary course, Art. 11(b)
	Fisherman and master of a fishing vessel	DK	SEC – Certificate attesting the completion of a secondary course, Art. 11(b)
	Fisherman	PT	SEC – Certificate attesting the completion of a secondary course, Art. 11(b)
	Fisherman	SI	ATT – Attestation of competence, Art. 11(a)
	Coastal fisherman	EE	ATT – Attestation of competence, Art. 11(a)
	Chief mate on fishing vessel	FR	PS3 – Diploma of post-secondary level (3-4 years), Art. 11(d)
	Chief engineer officer on fishing vessel	FR	PS3 – Diploma of post-secondary level (3-4 years), Art. 11(d)
	Able seaman (fisheries)	PT	SEC – Certificate attesting the completion of a secondary course, Art. 11(b)
	Able fisherman of seagoing fishing	PL	SEC – Certificate attesting the completion of a secondary course, Art. 11(b)
Inshore fishing vessel skipper	Skipper (coastal fishing vessels)	PT	SEC – Certificate attesting the completion of a secondary course, Art. 11(b)
	Multipurpose coastal skipper	ES	ATT – Attestation of competence, Art. 11(a)
	Mate deep-sea fishing	NL	PS3 – Diploma of post-secondary level (3-4 years), Art. 11(d)
	Inshore fishing vessel skipper	ES	DSE – Diploma (post-secondary education), including Annex II (ex 92/51, Annex C, D), Art. 11(c)
Local fishing vessel skipper	Local fishing vessel skipper	PT	SEC – Certificate attesting the completion of a secondary course, Art. 11(b)
Navigational Watch	Seafarers (deck) (fishing fleet)	BE	SEC – Certificate attesting the completion of a secondary course, Art. 11(b)
Second engineer class II, fishing vessel	Second naval engineer class II (fishing sector)	ES	SEC – Certificate attesting the completion of a secondary course, Art. 11(b)
	Engineer officer certificate of competency (fishing vessel) class 2	IE	DSE – Diploma (post-secondary education), including Annex II (ex 92/51, Annex C, D), Art. 11(c)
Ship's mechanic	Seafarer (mechanic) (fishing fleet)	BE	SEC – Certificate attesting the completion of a secondary course, Art. 11(b)
Skipper/deck officer fishing fleet	Skipper unlimited voyages seagoing fishing	PL	SEC – Certificate attesting the completion of a secondary course, Art. 11(b)
	Skipper class 2 seagoing fishing	PL	SEC – Certificate attesting the completion of a secondary course, Art. 11(b)
	Skipper class 1 seagoing fishing	PL	SEC – Certificate attesting the completion of a secondary course, Art. 11(b)
	Skipper (fishing vessels)	PT	SEC – Certificate attesting the completion of a secondary course, Art. 11(b)

Generic name	Profession name	MS	Qualification level
	Fishing Skipper (long distance)	PT	SEC – Certificate attesting the completion of a secondary course, Art. 11(b)
	Deck officer/skipper fishing fleet > 45 m (master)	DK	DSE – Diploma (post-secondary education), including Annex II (ex 92/51, Annex C, D), Art. 11(c)
	Deck officer/skipper fishing fleet > 45 m (first mate on fishing vessel)	DK	DSE – Diploma (post-secondary education), including Annex II (ex 92/51, Annex C, D), Art. 11(c)
	Deck officer certificate of competency (fishing vessel) skipper limited	IE	DSE – Diploma (post-secondary education), including Annex II (ex 92/51, Annex C, D), Art. 11(c)
	Boatswain (fishing activity)	PT	SEC – Certificate attesting the completion of a secondary course, Art. 11(b)

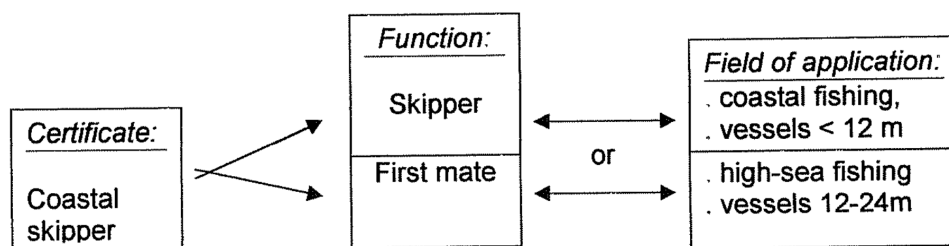
Note: notation of the professions as in the Regulated Professions Database.

Data source: Regulated Professions Database

2.3.3. Classification of professional qualifications in the EU fishing sector

While the generic clusters provide a practical tool for classifying professions and the qualifications required, this is not always the case. For instance, engineering professions are classified under different generic names, and the same applies to skippers and coastal fishers. In addition, while a regulated profession requires a specific level of qualification, it does not specify the *actual* activity exercised on board of the fishing vessel. In this study, the activity exercised is referred to as ‘actual profession’ - a term used to distinguish the actual function exercised on board from the regulated profession linking it to a specific qualification. For completeness, the last comprehensive overview of fishing qualifications in the EU (known as the ‘Bénodet report’) uses the terms ‘function’ and ‘field of application’ instead (Europêche *et al.* 2000) (Figure 3).

Figure 3: Schematic representation for distinguishing certificate, function, and field of application, as used in the Bénodet report.



Source: Europêche *et al.* 2000, p.11).

In other words, the way the profession is defined by a certificate does not necessarily reflect the function ('job') exercised on board the fishing vessel. In Ireland for example, to obtain the title of Engineer Officer Certificate of Competency (Fishing Vessel) Class 3, the completion of qualification level SEC - Certificate attesting the completion of a secondary course, Art. 11(b) is required. Yet, there are two specific functions on board that can be exercised with that professional qualification. These functions are defined by the activities required and subject to certain restrictions and limitations such as the vessel's engine power, tonnage, length, and area of operation – Role 1: 'Second engineer officer

(fishing vessel)' on vessel with a propulsion power of less than 3 000 kW; Role 2: 'Engineer officer (fishing vessel)' on any fishing vessel⁴⁷.

While the Regulated Professions Database does contain this detailed information, it is not taken into consideration when classifying professions into 'generic' categories. Therefore, an attempt at extending the classification in the Database was made in this report, taking into account the following additional elements:

- The different roles the holder of a specific qualification can fulfil on board a fishing vessel;
- A reorganisation of generic types based on elements in (a) the name of the regulated profession, and (b) the activities listed for that profession.

Table 4 shows the professional qualifications identified in this study by Member State. While there are 46 regulated professions, they give rise to 78 actual professions on board of fishing vessels, defined by the activities that they involve. The highest diversity in actual fishing professions is found in Spain (n=23), followed by the Netherlands (n=13), and Ireland (n=10).

Table 4: Regulated professions by Member State and number of *actual* professions associated with them.

Member State	Profession name	No. defined activities
BE	Seafarers (deck) (fishing fleet)	2
	Seafarer (mechanic) (fishing fleet)	3
DK	Fisherman and master of a fishing vessel (<=15 m)	1
	Deck officer/skipper fishing fleet > 45 m (Master)	1
	Deck officer/skipper fishing fleet > 45 m (First mate on fishing vessel)	1
	Deck officer/skipper fishing fleet < 45 m (Master)	1
	Deck officer/skipper fishing fleet < 45 m (First Mate)	1
EE	Coastal fisherman	1
FR	Second engineer officer on fishing vessel	1
	Officer in charge of an engineering watch	1
	Officer in charge of a navigational watch	1
	Master on fishing vessel	1
	Chief mate on fishing vessel	1
	Chief engineer officer on fishing vessel	1
IE	Engineer officer certificate of competency (fishing vessel) class 3	2
	Engineer officer certificate of competency (fishing vessel) class 2	2
	Engineer officer certificate of competency (fishing vessel) class 1	1
	Deck officer certificate of competency (fishing vessel) skipper limited	1
	Deck officer certificate of competency (fishing vessel) skipper full	1

⁴⁷ To avoid confusion, the second engineer officer is higher in rank than the engineer officer. The highest rank in this category is the chief engineer officer.

Member State	Profession name	No. defined activities
	Deck officer certificate of competency (fishing vessel) second hand special	1
	Deck officer certificate of competency (fishing vessel) second hand limited	1
	Deck officer certificate of competency (fishing vessel) second hand full	1
NL	Mate deep-sea fishing	5
	Mate-engineer deep-sea fishing	8
PL	Skipper unlimited voyages seagoing fishing	1
	Skipper class 2 seagoing fishing	1
	Skipper class 1 seagoing fishing	1
	Fisherman of seagoing fishing	1
	Able fisherman of seagoing fishing	1
PT	Skipper (fishing vessels)	1
	Skipper (coastal fishing vessels)	2
	Local fishing vessel skipper	1
	fishing skipper (long distance)	2
	Fisherman	1
	Boatswain (fishing activity)	1
	Able seaman (fisheries)	1
SI	Fisherman	1
ES	Second naval engineer class II (fishing sector)	3
	Naval engineer (fishing sector)	3
	Multipurpose coastal skipper	5
	Local fishing vessel skipper	2
	Inshore fishing vessel skipper	2
	Fishing seaman	2
	Deep-sea fishing vessel skipper	2
	Deep-sea fishing captain	1
	Chief engineer class 1 (fishing sector)	3
Total		78

Data source: Regulated Professions Database.

Table 5 lists all regulated professions identified in this study and the actual professions that they contain. The study proposes a classification of these professions based on the profession name, as well as the activities, restrictions and limitations associated with them. This classification includes the following broad categories:

- skipper/master/captain;

- chief mate/first mate;
- mate/second hand;
- engineering professions (*sensu lato*);
- seaman;
- various.

A further subdivision can be made based on several criteria, often in the form of restrictions associated with the profession – such as the length of the fishing vessel, its propulsion power, its tonnage, and areas where the qualified individual is allowed to exercise their function. Other criteria are embedded in the name of the profession: e.g. substitute skipper, long distance, coastal, inshore, etc. The Regulated Professions Database is used for a detailed overview of the criteria, organised by Member State and by regulated profession (see sections General information and Screening information for each profession)⁴⁸,

Table 5: Generic name, name of the regulated profession in English and actual professions.

Generic name	Profession name	MS	Actual professions based on activities
Chief engineer class I fishing vessel	Engineer officer certificate of competency (fishing vessel) class 1	IE	Engineer officer class 1 (fishing sector)
	Chief engineer class 1 (fishing sector)	ES	Chief engineer officer (fishing vessels <= 6 000 kW)
			Officer in charge of an engineering watch (all fishing vessels)
			Second engineer officer (all fishing vessels)
Deck officer and engineer class VI, fishing fleet	Mate-engineer deep-sea fishing	NL	Chief engineer (all fishing vessels)
			Chief engineer (fishing vessels < 3 000 kW)
			Engineer (all fishing vessels)
			Mate (all fishing vessels)
			Mate-engineer (all fishing vessels)
			Second engineer (fishing vessels < 3 000 kW)
			Skipper (all fishing vessels)
			Substitute skipper (fishing vessels <= 60 m)
Deck officer class I fishing vessel	Deck officer certificate of competency (fishing vessel) skipper full	IE	Skipper full
Deck officer class II fishing vessel	Deck officer/skipper fishing fleet < 45 m (master)	DK	Deck officer/skipper fishing fleet < 45 m (master)
	Deck officer/skipper fishing fleet < 45 m (first mate)	DK	Deck officer/skipper fishing fleet < 45 m (first mate)
	Deck officer certificate of competency (fishing vessel) second hand full	IE	Second hand full

⁴⁸ In addition to the criteria mentioned above, these may include duration of education/training programme, existence of mandatory traineeship, mandatory professional experience, existence of a state exam to access the profession, age restrictions, etc. (see Regulated Professions Database).

Generic name	Profession name	MS	Actual professions based on activities
Deck officer second hand fishing fleet	Deck officer certificate of competency (fishing vessel) second hand special	IE	Second hand special
	Deck officer certificate of competency (fishing vessel) second hand limited	IE	Second hand limited
Deep-sea fishing vessel skipper	Deep-sea fishing vessel skipper	ES	Chief mate or mate (chief officer or deck officer) (all vessels)
			Master (sea captain) (fishing vessels <= 50 m)
	Deep-sea fishing captain	ES	Master of fishing vessels in unlimited waters
Engineer fishing fleet	Naval engineer (fishing sector)	ES	Chief engineer officer (fishing vessels <= 1 400 kW)
			Engineer officer on any fishing vessel
			Second engineer officer (fishing vessels <= 6 000 kW)
	Local fishing vessel skipper	ES	Chief engineer officer (<= 180 kW)
			Master (captain) and/or chief engineer officer onboard coastal fishing vessels (<= 12 m and < 100 kW) (12 miles from the coast)
Engineer officer class III (fu) fishing fleet	Engineer officer certificate of competency (fishing vessel) class 3	IE	Engineer officer (fishing vessel)
			Second engineer officer (fishing vessel)
Fisherman	Second engineer officer on fishing vessel	FR	Second engineer officer on fishing vessel
	Officer in charge of an engineering watch	FR	Officer in charge of an engineering watch
	Officer in charge of a navigational watch	FR	Officer in charge of a navigational watch
	Master on fishing vessel	FR	Master on fishing vessel
	Fishing seaman	ES	Fishing seaman: handling the vessel (<10 m) (fishing or aquaculture)
			Fishing seaman: working as a sailor (seemingly no limitations) (fishing or aquaculture)
	Fisherman of seagoing fishing	PL	Fisherman of seagoing fishing
	Fisherman and master of a fishing vessel	DK	Fisherman/skipper on fishing vessel (<=15 m)
	Fisherman	PT	Fisherman
	Fisherman	SI	Fisherman
	Coastal fisherman	EE	Coastal fisherman
	Chief mate on fishing vessel	FR	Chief mate on fishing vessel
	Chief engineer officer on fishing vessel	FR	Chief engineer officer on fishing vessel
	Able seaman (fisheries)	PT	Able seaman

Generic name	Profession name	MS	Actual professions based on activities
	Able fisherman of seagoing fishing	PL	Able fisherman of seagoing fishing
Inshore fishing vessel skipper	Skipper (coastal fishing vessels)	PT	Master of fishing vessels (<33 m OR <250 GT) (within specific geographical limits)
			Second officer of navigation of fishing vessels (<45 m OR <700 GT)
	Multipurpose coastal skipper	ES	Chief engineer officer (<=550 kW)
			Chief mate of fishing vessels
			Master and/or chief engineer officer (<=24 m and <400 kW) (up to 60 miles from the coast)
			Officer in charge of an engineering watch (all fishing vessels)
			Second engineer officer of fishing vessels (<=750 kW)
	Mate deep-sea fishing	NL	Mate all fishing vessels
			Skipper all fishing vessels
			Skipper fishing vessels (under 60 m)
			Substitute skipper all fishing vessels
			Substitute skipper vessels (under 60 m)
	Inshore fishing vessel skipper	ES	Chief mate or mate (chief officer or deck officer) (<=50 m)
			Master (captain) (<=30 m) (restricted area)
Local fishing vessel skipper	Local fishing vessel skipper	PT	Skipper of fishing vessels (<9 m) (specific geographical limits)
Navigational watch	Seafarers (deck) (fishing fleet)	BE	Helmsman (fishing vessel)
			Seaman (fishing vessel)
Second engineer class II, fishing vessel	Second naval engineer class II (fishing sector)	ES	Chief engineer officer (<550 kW)
			Engineer officer on any fishing vessel
			Second engineer officer (<750 kW)
	Engineer officer certificate of competency (fishing vessel) class 2	IE	Chief engineer officer
Ship's mechanic	Seafarer (mechanic) (fishing fleet)	BE	Motorist 221 kW (fishing vessel)
			Motorist 750 kW (fishing vessel)
			Motorist unlimited propulsion power (fishing vessel)
Skipper/deck officer fishing fleet	Skipper unlimited voyages seagoing fishing	PL	Fishing and navigating the fishing vessel
	Skipper class 2 seagoing fishing	PL	Fishing and navigating the fishing vessel
	Skipper class 1 seagoing fishing	PL	Fishing and navigating the fishing vessel

Generic name	Profession name	MS	Actual professions based on activities
	Skipper (fishing vessels)	PT	Skipper
	Fishing skipper (long distance)	PT	Master of fishing vessels (<45 m OR GT <=700) (no area limitation)
			Second officer of navigation of fishing vessels (>=45 m OR GT>= 700)
	Deck officer/skipper fishing fleet > 45 m (Master)	DK	Deck officer/skipper fishing fleet > 45 m (master)
	Deck officer/skipper fishing fleet > 45 m (first mate on fishing vessel)	DK	First mate on fishing vessel >45 m
	Deck officer certificate of competency (fishing vessel) skipper limited	IE	Skipper limited (<100 m) (limited area)
	Boatswain (fishing activity)	PT	Boatswain (may act as master, see conditions)

Note: notation of the professions as in the Regulated Professions Database.

Data source: Regulated Professions Database.

Skipper/master/captain

The skipper or captain is the highest officer on board the fishing vessel. The skipper plays a crucial role in the operation and management of the vessel. They are responsible for various aspects of the fishing expedition, ensuring the safety of the crew, and complying with relevant regulations.

Twenty-four skipper professions (31% of all professions identified) were found, across seven countries (Table 6). The terms skipper, master, and captain were considered synonyms, as they are used interchangeably even within Member States.

Table 6: Actual fishing professions identified under Category 1 – skipper/master/captain.

MS	Regulated profession	Actual profession
DK	Deck officer/skipper fishing fleet < 45 m (Master)	Deck officer/skipper fishing fleet < 45 m (Master)
	Deck officer/skipper fishing fleet > 45 m (Master)	Deck officer/skipper fishing fleet > 45 m (Master)
	Fisherman and master of a fishing vessel	Fisherman/skipper on fishing vessel (<=15 m)
FR	Master on fishing vessel	Master on fishing vessel
IE	Deck officer certificate of competency (fishing vessel) skipper Full	Skipper full
	Deck officer certificate of competency (fishing vessel) skipper limited	Skipper limited (<100 m) (limited area)
NL	Mate-engineer deep-sea fishing	Skipper (all fishing vessels)
		Substitute skipper (fishing vessels <=60 m)
	Mate deep-sea fishing	Skipper all fishing vessels
		Skipper fishing vessels (under 60 m)

MS	Regulated profession	Actual profession
		Substitute skipper all fishing vessels
		Substitute skipper vessels (under 60 m)
PL	Skipper class 1 seagoing fishing	Fishing and navigating the fishing vessel (class 1)
	Skipper class 2 seagoing fishing	Fishing and navigating the fishing vessel (class 2)
	Skipper unlimited voyages seagoing fishing	Fishing and navigating the fishing vessel
PT	Fishing skipper (long distance)	Master of fishing vessels (<45 m OR GT <=700) (no area limitation)
	Local fishing vessel skipper	Skipper of fishing vessels (<9 m) (within specific geographical limits)
	Skipper (coastal fishing vessels)	Master of fishing vessels (<33 m OR <250 GT) (within specific geographical limits)
	Skipper (fishing vessels)	Skipper
ES	Deep-sea fishing captain	Master of fishing vessels in unlimited waters
	Deep-sea fishing vessel skipper	Master (sea captain) (fishing vessels <= 50 m)
	Inshore fishing vessel skipper	Master (captain) (fishing vessels <= 30 m) (restricted area)
	Local fishing vessel skipper	Master (captain) and/or chief engineer officer onboard coastal fishing vessels (<=12 m and <100 kW) (12 miles from the coast)
	Multipurpose coastal skipper	Master and/or chief engineer officer (<=24 m and <400 kW) (60 miles from the coast)

Data source: Regulated Professions Database.

Table 7: Actual fishing professions identified under Category 2 – chief mate/first mate.

MS	Regulated profession	Actual profession
DK	Deck officer/skipper fishing fleet < 45 m (first mate)	Deck officer/skipper fishing fleet < 45 m (first mate)
	Deck officer/skipper fishing fleet > 45 m (first mate on fishing vessel)	First mate on fishing vessel >45 m
FR	Chief mate on fishing vessel	Chief mate on fishing vessel
ES	Deep-sea fishing vessel skipper	Chief mate or mate (chief officer or deck officer) (all vessels)
	Inshore fishing vessel skipper	Chief mate or mate (chief officer or deck officer) (<= 50 m)
	Multipurpose coastal skipper	Chief mate of fishing vessels

Data source: Regulated Professions Database.

Chief mate/first mate

Where applicable, the second position on board a fishing vessel is the chief (or first) mate (sometimes also chief officer). The chief mate is the officer responsible for assisting the captain or skipper in various

aspects of ship operation, safety, and fishing activities. The chief mate holds a leadership role and plays a critical part in ensuring the vessel's safe and efficient operation during fishing expeditions.

Six chief mate professions were found (8% of all professions identified), across three countries (Table 7). The terms chief mate and first mate were considered synonyms.

Mate/second hand

The mate, also referred to as the second mate or second hand is an officer-level position responsible for assisting the captain (skipper) and the chief mate in the overall management and operation of the vessel. The mate plays a crucial role in ensuring the safe and efficient conduct of fishing activities at sea.

Table 8: Actual fishing professions identified under Category 3 – mate/second hand.

MS	Regulated profession	Actual profession
IE	Deck officer certificate of competency (fishing vessel) second hand full	Second hand full
	Deck officer certificate of competency (fishing vessel) second hand limited	Second hand limited
	Deck officer certificate of competency (fishing vessel) second hand special	Second hand special
NL	Mate deep-sea fishing	Mate all fishing vessels
	Mate-engineer deep-sea fishing	Mate (all fishing vessels)
		Mate-engineer (all fishing vessels)
PT	Skipper (coastal fishing vessels)	Second officer of navigation of fishing vessels (<45 m OR <700 GT)
	Fishing skipper (long distance)	Second officer of navigation of fishing vessels (>=45 m OR GT>= 700)

Data source: Regulated Professions Database.

Eight professions of mate were identified, corresponding to 10% of all professions across three countries (Table 8). The terms mate and second hand were considered synonyms.

Engineering professions (*sensu lato*)

Depending on the type and size of the fishing vessel there can be different positions within the engineering team. For the discussion here, this study discerns the following positions: chief engineer (or first engineer), second engineer, and engineer (*sensu lato*)⁴⁹:

- **Chief engineer:** The chief engineer is the head of the engineering department and is responsible for leading and managing the engine room crew. They oversee the maintenance, repair, and operation of all machinery and equipment in the engine room, including engines, propulsion systems, generators, and pumps. They also manage the inventory of spare parts, and monitor engine performance, fuel consumption, and other critical parameters to ensure efficient and safe operations. Finally, the chief engineer conducts safety drills and ensures the crew is trained in emergency procedures.

⁴⁹ Depending on the country, we also find 'officer in charge of an engineering watch' (Spain, France), 'motorist' (Belgium), etc.

Table 9: Actual fishing professions identified under Category 4 – Engineering professions.

MS	Regulated profession	Actual profession
BE	Seafarer (mechanic) (fishing fleet)	Motorist 221 kW (fishing vessel)
		Motorist 750 kW (fishing vessel)
		Motorist unlimited propulsion power (fishing vessel)
FR	Chief engineer officer on fishing vessel	Chief engineer officer on fishing vessel
	Officer in charge of an engineering watch	Officer in charge of an engineering watch
	Second engineer officer on fishing vessel	Second engineer officer on fishing vessel
IE	Engineer officer certificate of competency (fishing vessel) class 1	Engineer officer (Fishing Vessel) Class 1
	Engineer officer certificate of competency (fishing vessel) class 2	Chief engineer officer
		Second engineer officer
	Engineer officer certificate of competency (fishing vessel) class 3	Engineer officer (fishing vessel)
		Second engineer officer (fishing vessel)
NL	Mate-engineer deep-sea fishing	Chief engineer (all fishing vessels)
		Chief engineer (fishing vessels < 3 000 kW)
		Engineer (all fishing vessels)
		Second engineer (fishing vessels < 3 000 kW)
ES	Chief engineer class 1 (fishing sector)	Chief engineer officer (fishing vessels ≤ 6 000 kW)
		Officer in charge of an engineering watch (all fishing vessels)
		Second engineer officer (all fishing vessels)
	Local fishing vessel skipper	Chief engineer officer (≤180 kW)
	Multipurpose coastal skipper	Chief engineer officer (≤550 kW)
		Officer in charge of an engineering watch (all fishing vessels)
		Second engineer officer of fishing vessels (≤750 kW)
	Naval engineer (fishing sector)	Chief engineer officer (fishing vessels ≤ 1 400 kW)
		Engineer officer on any fishing vessel
		Second engineer officer (fishing vessels ≤6000 kW)
	Second naval engineer class II (fishing sector)	Chief engineer officer (<550 kW)
		Engineer officer on any fishing vessel
		Second engineer officer (<750 kW)

Data source: Regulated Professions Database.

Note that this table excludes the Dutch regulated profession mate-engineer (all fishing vessels), which was classified under mate.

- **Second engineer:** The second engineer assists the chief engineer in overseeing the engine room operations. They help plan and execute routine maintenance tasks and repairs, including inspections and troubleshooting. The second engineer is responsible for operating engines, propulsion systems, and auxiliary equipment as needed, and they provide training and supervision to junior engineering staff and engine room ratings. They play a key role in emergency response situations and are trained to handle engine room emergencies.
- **Engineer:** The engineer performs routine maintenance tasks and may operate machinery or equipment under the supervision of higher-ranked engineers. Participation in safety drills and adherence to safety protocols is crucial. Engineers should be prepared for emergency situations.

Twenty-eight engineering professions were identified (36% of all professions identified), across five countries (Table 9). Of these, 9 were chief engineer professions, and eight were second engineer professions. The remaining 11 professions are for lower-ranked engineers, as well as specific categories such as motorist (Belgium), and officer in charge of an engineering watch (France, Spain).

With regard to engineering positions, it must be noted that the forthcoming revision of the STCW-F Convention includes requirements for all officers in charge of engineering watch, in line with the STCW Convention (the 1995 Convention only includes requirements for engineer officers and second engineer officers) (Michael Kingston, consultant to the IMO, pers. comm.).

Seaman (*sensu lato*)

The general term seaman is used by some Member States (e.g. Belgium, Poland, Portugal, Slovenia, and Spain) to denote different professions in the deck department, requiring various levels of experience. Furthermore, Poland and Portugal also use the term able seaman, to denote a specific rank and qualification within the deck department. For ease of classification, this study grouped them in the same category.

Ten professions of (able) seaman (13% of all professions identified) were identified across six countries (Table 10).

Table 10: Actual fishing professions identified under Category 5 – seaman (*sensu lato*).

MS	Regulated profession	Actual profession
BE	Seafarers (deck) (fishing fleet)	Helmsman (fishing vessel)
		Seaman (fishing vessel)
EE	Coastal fisherman	Coastal fisherman
PL	Able fisherman of seagoing fishing	Able fisherman of seagoing fishing
	Fisherman of seagoing fishing	Fisherman of seagoing fishing
PT	Able seaman (fisheries)	Able seaman
	Fisherman	Fisherman
SI	Fisherman	Fisherman
ES	Fishing seaman	Fishing seaman: handling the vessel (<10 m) (fishing or aquaculture)
		Fishing seaman: working as a sailor (seemingly no limitations) (fishing or aquaculture)

Data source: Regulated Professions Database.

In most Member States, one regulated profession (i.e. one qualification) gives rise to one profession. Hence, in Member States where both exist (Portugal and Poland), the qualifications of seaman/fisherman, and able seaman are obtained via distinctive training paths. However, the extent to which they differ was not analysed for this study. In Belgium and Spain, the same qualification gives rise to two professions. In Belgium, the functions are different in title and responsibilities, whereas in Spain the size of the vessel allows or restricts access to the profession. In practice, it is likely that other elements like seagoing experience in the deck department, mandatory training, etc. play a role in accessing the professions. However, this could not be verified within the scope of present study. Interestingly, for Slovenia and Estonia, the profession of (coastal) fisherman is the only regulated profession in the database.

Various

A number of other professions were not discussed in this section because they have no counterpart in other Member States: Officer in charge of a navigational watch (France), and Boatswain (fishing activity) (Portugal). Restrictions (length, propulsion power, tonnage, and area) included for each profession in the Regulated Professions Database are presented in Annex I.

2.3.4. Current state of play: decisions on establishment and temporary mobility

The recognition procedure of qualifications is initiated by the applicant who has the intention to exercise their profession abroad, either temporarily or permanently (establishment). However, the current analysis is limited by the following:

The Regulated Professions Database describes seven categories of regulation surrounding professions in the EU. The most important aspect is the way in which the profession is protected (regulated). A distinction is made between Reserved activities and Protected Title. Reserved activities involve specific tasks or services that can only be performed by qualified individuals, whereas protected titles relate to the use of specific professional titles, which are restricted to those who meet the required standards. The analysis in this study shows that the former is the most common in the EU fishing sector. Only a handful of fishing professions in Spain are regulated by both reserved activities and protected title. Figure 4 shows the regulations that apply in each Member State, for every regulated fishing profession. A key observation is the lack of regulation of fishing professions in most EU Member States (colour-coded green in the figure).

After the competent authority of the host MS receives the applicant's request for recognition, it is tasked with evaluating the applicant's level of qualification and experience against several criteria, based on which a decision is made. In some cases, the host Member State may require the applicant to complete an adaptation period of up to three years, or to take an aptitude test (Article 14 of Directive 2005/36/EC).

Figure 4: Type of regulation for each regulated fishing profession by Member State.

Note: First row, from left to right: fisherman, deep-sea fishing vessel skipper, deck officer class I fishing vessel, deck officer class II fishing vessel. Second row: deck officer class III fishing vessel, deck officer second hand fishing fleet, engineer fishing fleet, engineer officer class III fishing fleet. Third row: inshore fishing vessel skipper, local fishing vessel skipper, second engineer class II fishing vessel, skipper/deck officer fishing fleet. Fourth row: navigational watch, ship's mechanic, chief engineer class I fishing vessel, deck officer engineer fishing fleet.

Legend

Reserves of Activities and Protected Title

This colour designates the countries where there are both reserved activities and protected title for the selected profession.

Reserves of Activities

This colour designates the countries where, for the selected profession, certain activities are reserved to the holders of a specific professional qualification. This may include instances where there are shared reserved activities with other regulated professions.

Protected Title (without reserves of activities)

This colour designates the countries where, for the selected profession, only the title is protected.

Multiple Types of Regulations

This colour designates the countries where several regulated professions are grouped under the selected profession, each one having a different type of regulation (for example in cases where for some regulated professions under a given generic profession there are reserves of activities, while for others only the title is protected).

Other

This colour designates the countries where another type of regulation than the ones outlined above applies for the selected profession.

No Information Submitted

This colour indicates that no information on the form of regulation implemented has been provided by the country regulating the selected profession.

Profession Not Regulated

This colour designates the countries where the profession selected is not regulated.

Data source: Regulated Professions Database.

Mobility decisions between 1997 and 2022

Between 1997 and 2022 a total of 1740 requests for recognition of certificates were processed by the Member States, of which 82% were assessed positively (i.e. qualifications recognised, and mobility granted). Most of the recognition procedures were related to establishment (65% of all procedures initiated) (Table 11).

Table 11: Statistics on establishment and temporary mobility of EU fishers by type of decision (1997-2002).

Type of mobility	Type of decision			Total
	Pending	Positive	Negative	
Establishment	149	947	27	1123
Temporary mobility	117	482	18	617
Total	266	1429	45	1740

Data source: Regulated Professions Database.

Table 12 provides an overview of mobility decisions, encompassing both temporary and permanent movements. Thirteen distinct decision categories are reported in the Regulated Professions Database. The most commonly applied category was the Positive Automatic General System without compensation measures imposed (48% of decisions). This is followed by the Positive Automatic Assessment after a check of qualifications as stipulated in Article 7.4 (24%) (see Box 1). However, the competent authority decides sometimes to assess the application favourably without checking the received qualifications. During the reference period, this was ruled in 46 cases (3%). All of these cases are recognitions by the Spanish competent authority of Portuguese qualifications. Rulings based on professional experience were rare (n=26), but in 81% of cases involved the recognition of the Danish qualification fisherman and master of a fishing vessel, by host countries Iceland, Latvia, and Poland. Aptitude tests were prescribed in 52 cases (3%), adaptation periods in 113 cases (6%), and compensation measures in 43 cases (2%). Data on mobility decisions by decision category, home country, and regulated profession name is presented in the Annex II.

Evolution of mobility over time

An assessment over time shows that the Automatic General System has been the dominant system over the entire reference period, except in 2018, where the positive automatic recognition of qualifications was the most prevalent pathway. The reason for this peak is unclear. Zooming in on the data, the data shows that 88% of cases involve a recognition by the host Spain (alongside Poland, Portugal and the non-EU country Iceland). Sending countries (home Member States) are France and Portugal. The explanation may be sought in Portugal's accession to STCW-F in 2017 and the imminent accession of France (2019), making this pathway suddenly easier. This could not be confirmed based on the data available at the time of this study.

The data shows that the recognition of qualifications in the EU fishing sector has increased from the beginning of the reference period to 2018, the year in which the highest number of positive recognitions was recorded (almost one third of all assessments over the entire period studied, Figure 5). Interestingly, especially the number of temporary mobility decisions was high that year (54% of assessments). Furthermore, the data indicate that certain recognition procedures initiated between 1997 and 2006 are still pending decision. The accuracy of this information remains uncertain. In

contrast, pending decisions in more recent years can be explained by a presumably lengthy administrative process.

Table 12: Categories of mobility decisions for EU fishers for the period 1997-2022.

Category name	Establishment	Temporary mobility	Total
Positive Automatic General System (no compensation measures imposed)	839		839
Check of qualifications (Article 7.4.(2)) - positive automatic		410	410
Being examined	93	57	150
Declarations received by the host country (Art. 7.1)- except cases covered by Art. 7.4		60	60
Positive after adaptation period (general system)	57		57
Undergoing adaptation period	56		56
Positive after aptitude test (general system)	51		51
No check of qualifications (Article 7.4.(2)) - positive automatic		46	46
Check of qualifications (Article 7.4(3)) - positive after compensation measure		26	26
Negative Automatic General System and professional experience ('crafts')	26		26
Check of qualifications (Article 7.4(3)) - negative after compensation measure		17	17
Check of qualifications (Article 7.4.(2)) - negative automatic		1	1
Negative after aptitude test (general system)	1		1
Total	1123	617	1740

Data source: Regulated Professions Database.

Note: The data encompass the European Economic Area (EEA), as well as the United Kingdom.

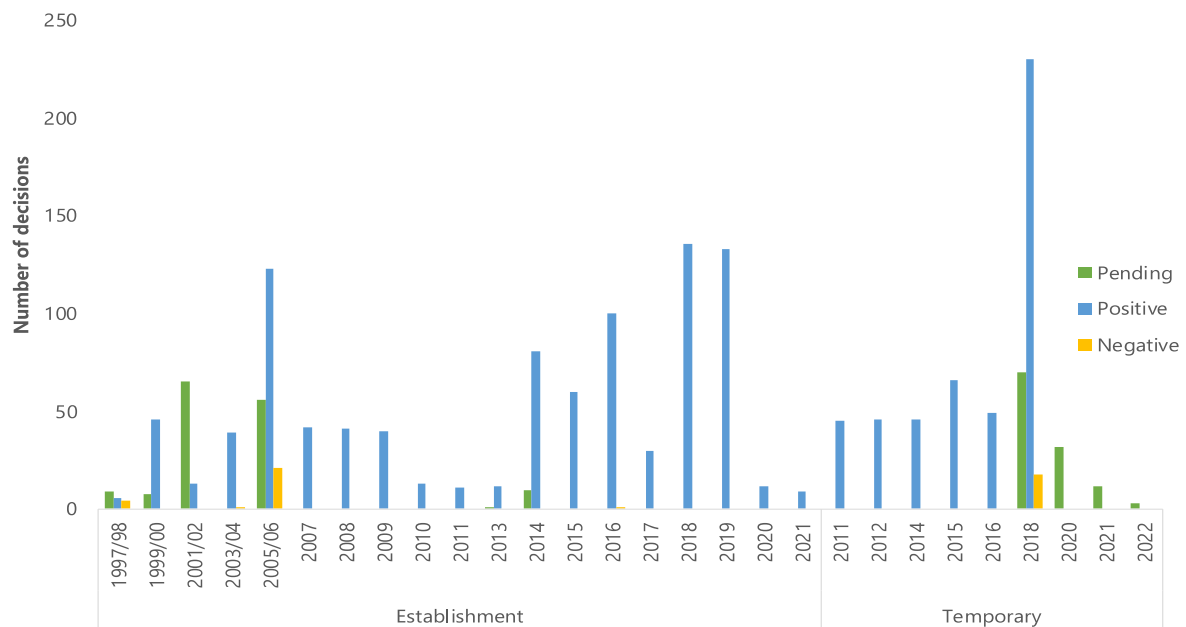
Mobility between countries

Mobility was recorded for seven out of the ten Member States for which this study identified regulated fishing professions. Portugal, France, Spain, and Denmark account for 97% of mobility which is probably related to the higher number of fishers in these countries. Similarly, three host countries are responsible for 89% of decisions (Spain, Portugal, and Poland). These observations align with the results of Ackermann *et. al* (2018, p.40).

Representing 32% of positive decisions for establishment, Spain is the top 'sending' country of qualified fishing professionals. This is followed by Portugal (27%), and France (24%). The only two sending countries for temporary mobility are Portugal and France (63% and 37% of positive decisions). The host countries that have positively assessed the most applications are Spain (47%), Portugal (32%), Poland (6%), and the Netherlands (5%). Roughly the same pattern is found when all applications are considered (including negative and pending decisions). Mobility is the highest from Spain to Portugal, from Portugal to Spain, and from France to Spain (Figure 6).

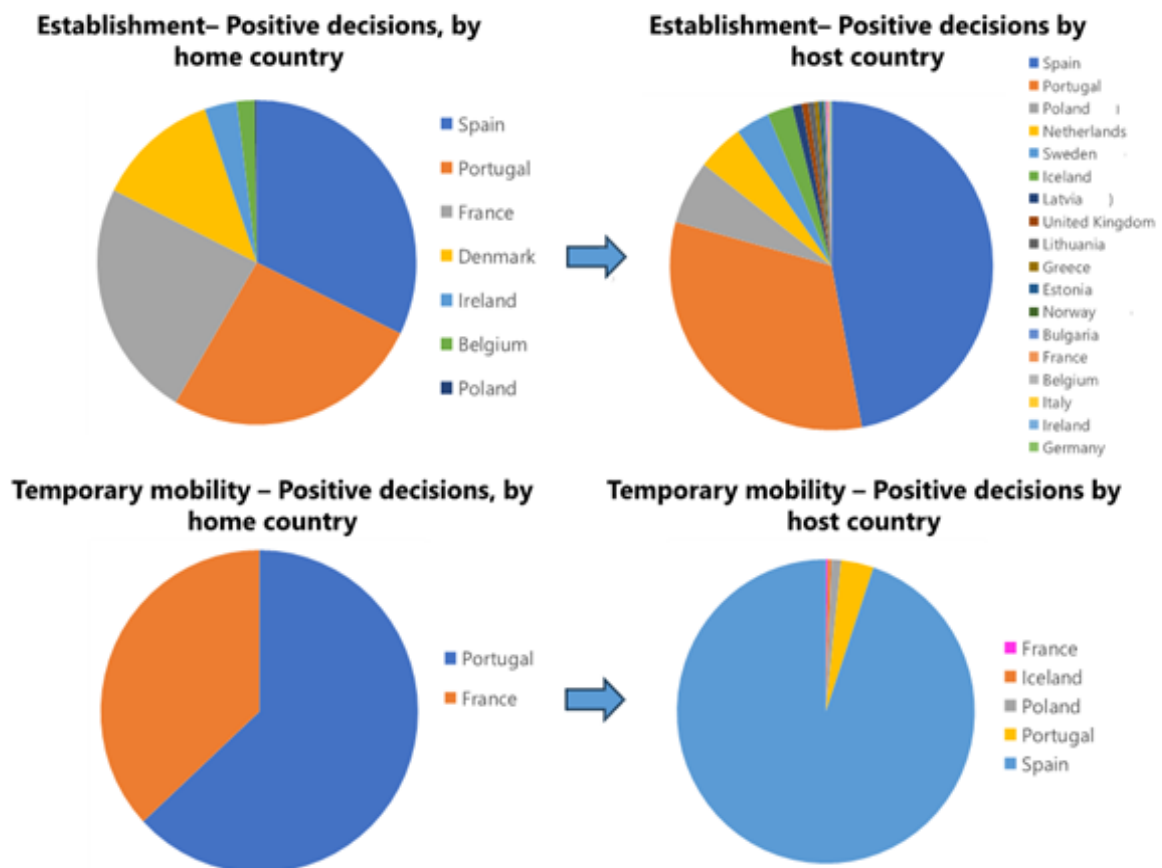
Denmark had the highest number of negative decisions. (15%). The countries rejecting most applications were Latvia (36%) and Poland (19%). In both cases, negative decisions were made only for applications from Denmark.

Figure 5: Mobility decisions based on the recognition of professional certificates for the period 1997-2022.



Data source: Regulated Professions Database.

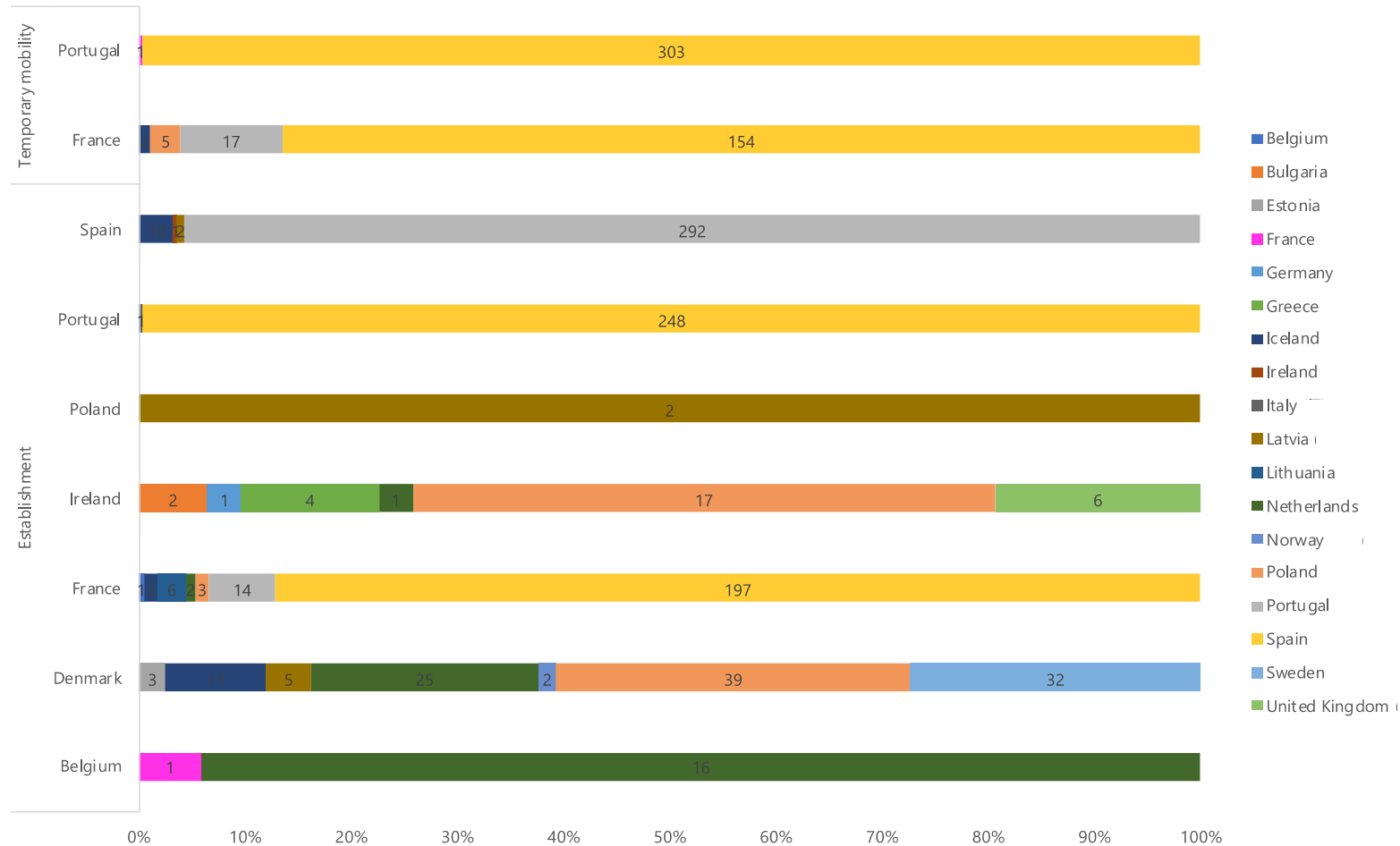
Figure 6: Share of positive decisions by decision type (temporary mobility and establishment) for (a) the home country (left) and (b) the host country (right) (1997-2022).



Source: Regulated Professions Database.

Note: The data encompass the European Economic Area (EEA), as well as the United Kingdom.

Figure 7: Share of positive mobility decisions by host countries (series) for all 'sending' countries (vertical axis) for the period 1997-2022 (n=1 429).



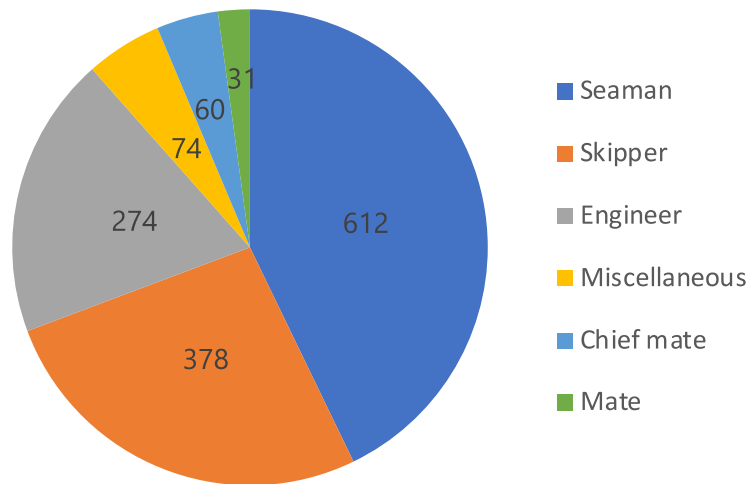
Data source: Regulated Professions Database.

Note: The data encompass the European Economic Area (EEA), as well as the United Kingdom.

Mobility by profession type

The large majority of the professions belong in the category seaman (43%), followed by skipper (26%), and engineer (19%) (Figure 8). A certain evolution can be observed during the reference period with regard to the types of professions that were recognised (e.g. the large number of engineering professions that were recognised in 2018) (Figure 9).

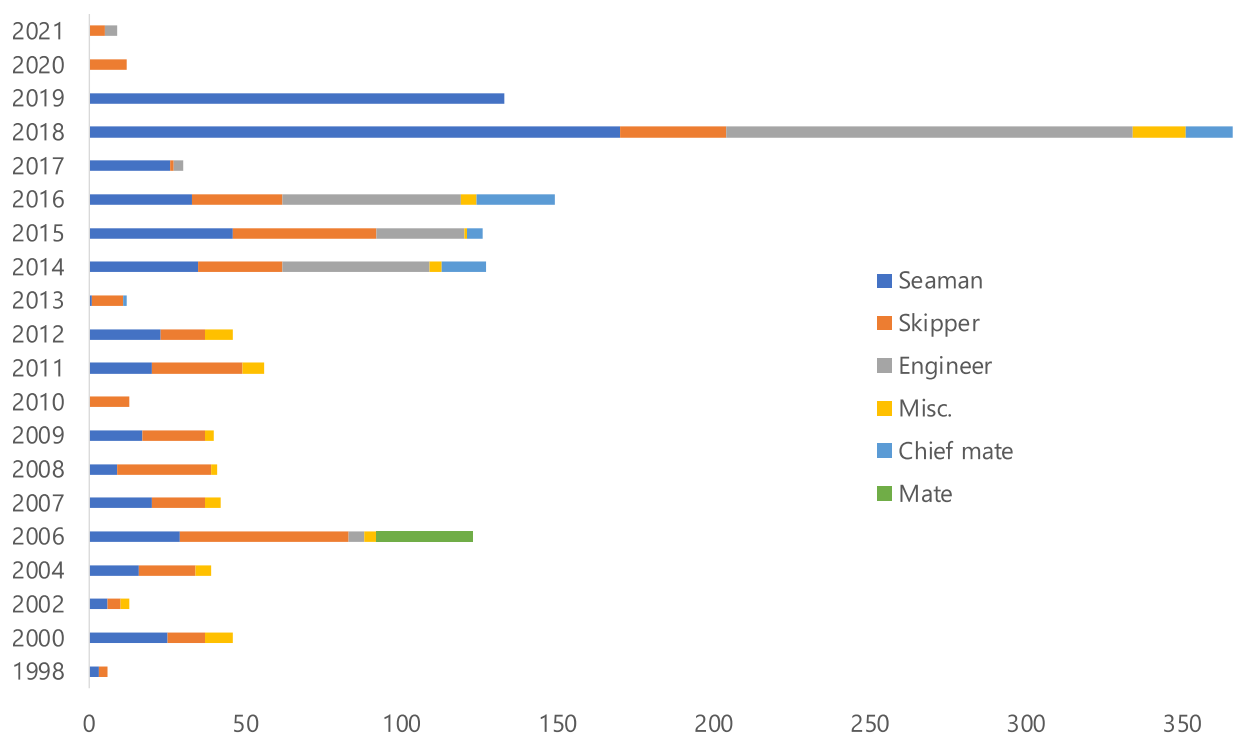
Figure 8: Positive decisions for mobility by profession category.



Data source: Regulated Professions Database.

Note: The category miscellaneous contains boatswain' and officer of a navigational watch.

Figure 9: Evolution of positive mobility decisions by profession category for the period 1998-2022.



Data source: Regulated Professions Database.

Note: The category Miscellaneous contains boatswain and officer of a navigational watch.

Mobility and the STCW-F Convention: what does the data show us?

Based on the analyses presented here, it is not possible to firmly conclude that the current system of recognition is inefficient compared to a standard based on STCW-F (as was asserted by van der Zwan (2018)). The data shows a growing number of mobility applications, as well as positive decisions. However, no quantitative reference allows an assessment of whether the total number of positive decisions is high or low.

In an attempt to gauge the importance of STCW-F ratification in the recognition decisions, this study investigated whether a shift in the number of positive automatic decisions occurred following accession to STCW-F for a number of countries⁵⁰ (Figure 10). This is based on the assumption that (1) these automatic decisions represent the pathways with the least friction, and (2) certification rooted in STCW-F would ensure the most efficient pathways to recognition. The analysis does not reveal any clear pattern. The recognitions of Portuguese qualifications by the Spanish competent authority had been steadily increasing long before STCW-F was ratified in these countries. On the other hand, the 2018 peak in recognitions of Spanish qualifications by Portugal does coincide with the accession of Portugal one year before, in 2017. These are very preliminary results based on a single data source, and a closer consideration of the specific professions that have benefited from being aligned with STCW-F standards is necessary.

When the decisions by qualification level are assessed, the analysis finds that the attestation of competence (ATT) was the most common level of qualification in mobility applications (Table 13). Furthermore, decisions were 100% positive for such applications. As mentioned previously, according to Article 11(a), an attestation of competence is issued by the home Member State on the basis of either (a) a training course not forming part of a certificate or diploma, (b) a specific examination without prior training, (c) full-time pursuit of the profession in a Member State for three consecutive years or for an equivalent duration on a part-time basis during the previous 10 years. The ATT corresponds entirely with professions of seaman (deckhand) which is the largest share of mobility in the EU. Further analysis reveals that all 291 instances concern mobility from Spanish qualified seamen to Portugal. This indicates that the Spanish ATT qualification is well recognised by the Portuguese competent authority. Interestingly, all but one of these decisions were made between 2017 and 2019. While this could not be confirmed, it is worth investigating further if there is a link with Portugal's accession to the STCW-F Convention in April 2017.

2.3.5. Update of the Bénodet report

The Bénodet study provided a comprehensive overview of the different qualifications existing at the time in the European Union (i.e. in the year 2000). Its aim was *'to study how the problem of mutual recognition of certificates poses itself in the sea fishing sector in Europe'* (Europêche et al. 2000). This was accomplished through a comparative analysis of the training systems, on the basis of a 1998 questionnaire sent out to the members of the Joint Committee for Social Problems in Sea Fishing, which later became the Sectoral Social Dialogue Committee – Sea Fisheries in 1999. The questionnaire was an update of the 1992 questionnaire, taking into account the STCW-F International Convention for the first time, which the authors assert *'could affect national systems in the medium run'*.

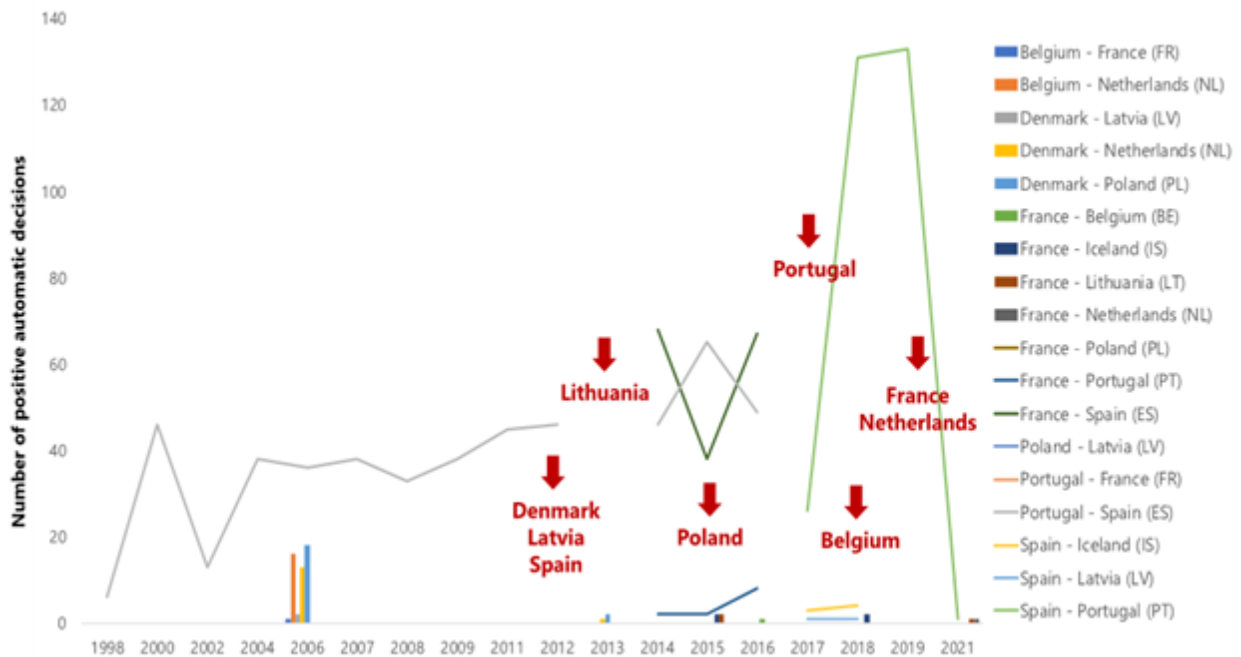
Like the Bénodet study, the present study conducted a comparative analysis of fisher qualifications in the EU. However, owing primarily to differences in data availability, the scope of both studies is different. Instead of questionnaires designed for a specific purpose, the present study relies on

⁵⁰ There are three types of automatic decision (Table 12). We selected sending countries which have ratified STCW-F and matched them with host Member States which also ratified STCW-F. This meant filtering Ireland (not ratified) from the sending countries, and Estonia, Ireland, and Italy (not ratified) from the host countries.

information available in the Regulated Professions Database. This methodology limited the scope of the analysis, in two ways. First, only regulated fishing professions were analysed, which were found in only 10 of the 22 Member States included in this study. Fishing professions seem to be non-regulated in the sense of Directive 2005/36/EC in the remaining 12 EU countries (Bulgaria, Croatia, Cyprus, Estonia, Germany, Greece, Italy, Latvia, Lithuania, Malta, Romania and Sweden). Second, the regulated fishing professions were identified based on their name and it is possible that this procedure missed some fishing professions. It is highly probable that the above 12 countries also have a system of fishing certificates in place. Unfortunately, this could not be confirmed in this study⁵¹. The results of the Bénodet study suggest that this is indeed the case: i.e. fishing certificates are described for Germany, Italy, and Sweden.

An important contribution of the Bénodet study is the analysis of fisher certificates in EU Member States explicitly around the minimum standards defined by the STCW-F Convention (see p. 7, for an overview of the six standards). As such, the analysis on how the certification in a given Member State relates to the STCW-F standard is straightforward in the Bénodet report. This analysis was not performed in the present study due to the scope of the analysis required by the PECH Committee – i.e. an assessment of the current state of play of the recognition of fishers' certificates of competency across the EU. This requirement was interpreted as an evaluation of the recognitions of certificates between Member States based on Directive 2005/36/EC, for which mobility statistics were used as the main proxy. For doing so, and in alignment with the Bénodet report, a classification of fishing certificates and training requirements was performed. However, the STCW-F Convention has remained a rather abstract category throughout this study. In this regard, the forthcoming revision of the STCW-F Convention provides an excellent opportunity to revisit the Bénodet analysis, drawing from the Regulated Professions Database as was done in the present study.

Figure 10: Evolution of positive automatic mobility decisions with indication of dates of accession to STCW-F.



Data source: Regulated Professions Database.

Note: The arrows indicate the year of accession. The legend shows the home MS (left) and the host MS (right).

⁵¹ For Latvia, it was found that the regulated profession of master on fishing vessels (Kapteinis/ šķiperis uz zvejas kuģiem) was classified under the generic profession of sailor (<https://ec.europa.eu/growth/tools-databases/regprof/regprof/30235>).

Table 13: Type of mobility decisions by level of qualification (pending, positive, negative).

Level of qualification (bold) / decision categories	Pending	Positive	Negative	Total
ATT - Attestation of competence, Art. 11(a)				
Positive Automatic General System (no compensation measures imposed)		291		291
DSE - Diploma (post-secondary education), including Annex II (ex 92/51, Annex C, D), Art. 11(c)				
Positive Automatic General System (no compensation measures imposed)		42		42
Positive after adaptation period (general system)		9		9
Being examined	5			5
PS3 - Diploma of post-secondary level (3-4 years), Art. 11(d)				
Check of qualifications (Article 7.4.(2)) - positive automatic		145		145
Positive Automatic General System (no compensation measures imposed)		145		145
Being examined	39			39
Positive after aptitude test (general system)		29		29
Check of qualifications (Article 7.4(3)) - positive after compensation measure		13		13
Declarations received by the host country (Art. 7.1)- except cases covered by Art. 7.4	9			9
Check of qualifications (Article 7.4(3)) - negative after compensation measure			8	8
Check of qualifications (Article 7.4.(2)) - negative automatic			1	1
PSM - Diploma from post-secondary level (more than 4 years), Art. 11(e)				
Positive Automatic General System (no compensation measures imposed)		51		51
Being examined	18			18
Check of qualifications (Article 7.4(3)) - positive after compensation measure		13		13
Check of qualifications (Article 7.4(3)) - negative after compensation measure			9	9
Check of qualifications (Article 7.4.(2)) - positive automatic		7		7
Declarations received by the host country (Art. 7.1)- except cases covered by Art. 7.4	4			4
Positive after adaptation period (general system)		1		1
SEC - Certificate attesting the completion of a secondary course, Art. 11(b)				
Positive Automatic General System (no compensation measures imposed)		310		310

Level of qualification (bold) / decision categories	Pending	Positive	Negative	Total
Check of qualifications (Article 7.4.(2)) - positive automatic		258		258
Being examined	88			88
Undergoing adaptation period	56			56
Positive after adaptation period (general system)		47		47
Declarations received by the host country (Art. 7.1)- except cases covered by Art. 7.4	47			47
No check of qualifications (Article 7.4.(2)) - positive automatic		46		46
Negative Automatic General System and professional experience ('crafts')			26	26
Positive after aptitude test (general system)		22		22
Negative after aptitude test (general system)			1	1
Total	266	1429	45	1740

Data source: Regulated Professions Database

2.4. Ratification of the STCW-F Convention and perspectives for the EU

KEY FINDINGS

- The STCW-F Convention has so far been ratified by 35 parties worldwide. Of these, 10 are EU Member States. Four Member States with a coastline do not consider ratification necessary: Estonia, Finland, Slovenia, and Bulgaria.
- The following views regarding the transposition of STCW-F into EU law were expressed by the social partners and the European Commission (DG MARE):
 - ✓ An EU-wide standard is needed to ensure a **level-playing field** for improving safety and working conditions on board as well as the overall attractiveness of the EU fishing sector.
 - ✓ Such standard would also benefit **free movement of workers**.
 - ✓ The reasons for low ratification rates to STCW-F are not well known but may be sought in a **high administrative and financial burden**.

The STCW-F Convention has so far been ratified by 35 parties worldwide. Of these, 10 are EU Member States (Table 14). France was the latest EU Member State to ratify the Convention (12 September 2019). According to a 2019 progress report from the European Commission to the Council, Germany, Greece, Ireland, and Sweden are working towards ratification⁵². Five Member States did not reply to the Commission's request for information as to why they have not ratified the STCW-F Convention (Croatia, Cyprus, Italy, Malta, and Slovakia).

Individual Member States' reasons for not ratifying the STCW-F Convention could not be collected within the scope of this study. When asked about this, both the social partners and the DG MARE asserted that they only have anecdotal information to that effect. However, the 2019 progress report does mention that four Member States with a coastline have reported that they do not consider ratification necessary (Estonia, Finland, Slovenia, and Bulgaria). Their reasons as explained in this report were: *'Member States do not plan to ratify the STCW-F Convention on the grounds that they have no vessels falling under its scope or have only a small fleet of fishing vessels over 24 metres or over 750 kW'*.

Regarding the perspectives of the EU for the ratification of STCW-F (see Annex III), from the feedback of the targeted interviews and consulted literature it can be concluded that the social partners and the representatives of DG MARE agree on the following:

- an EU-wide standard is needed to ensure a level playing field for improving safety and working conditions on board as well as the overall attractiveness of the EU fishing sector;
- such a standard would also benefit free movement of workers; and
- the reasons for low ratification rates are not well-known but may be sought in a high administrative and financial burden.

⁵² Report from the Commission to the Council on the progress of Member States' accession to the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, of the International Maritime Organisation, according to Article 2 of Council Decision (EU) 2015/799 ('COM(2019) 157 final'): <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2019:157:FIN>

Van der Zwan (2018) furthermore points to the port State control provisions of the STCW-F Convention, explaining that *'EU fishing vessels entering a foreign STCW-F compliant EU port could be faced with certification demands they cannot comply with because the flag State has not acceded to and implemented STCW-F'*. The same applies, in principle, to EU fishing vessels operating within the EEZs of third countries under EU fisheries agreements, such as Mauritania, Morocco, and Norway.

While all respondents acknowledge the efforts of the EU to make progress with the ratification of the STCW-F Convention, the social partners remain sceptical about widespread ratification as the end goal. They argue that an obligatory EU-wide standard would be stronger, as it would provide a more performant legal framework in case of infringement.

Table 14: EU Member States that have ratified the STCW-F Convention as of 4 August 2023.

Contracting state/territory	Ratification type	Date of entry into force in country
Belgium	Accession	10/08/2018
Denmark	Accession	29/09/2012
France	Accession	12/09/2019
Latvia	Accession	29/09/2012
Lithuania	Accession	06/03/2013
The Netherlands	Accession	24/03/2019
Poland	Accession	28/10/2015
Portugal	Accession	23/04/2017
Romania	Accession	27/05/2018
Spain	Accession	29/09/2012

Data source: IMO GSIS Database on the Status of Treaties <https://qsis.imo.org/Public/ST/Treaties.aspx>.

As regards the current system of recognitions of qualifications (Directive 2005/36/EC), the social partners claim that it is inefficient and bureaucratic, and that it does not promote the creation of a common standard. They assert that an EU-wide standard rooted in the STCW-F Convention (implemented into Union law through a Directive) would allow both the training of fishers and the resulting certificates of competence to be harmonised.

At the core of this discussion is the persisting difference in approach between the social partners and the European Commission. Although the Commission has expressed its willingness to explore the possibility of transposition of the STCW-F Convention, the social partners see it as the only way forward. The social partners refute the Commission's argument that widespread ratification is needed before moving towards transposition. They invoke the ILO 'Work in Fishing Convention, 2007' (C188), which was implemented through Directive 2017/159 despite low ratification rates (only 8 EU Member States to date). They also invoke the STCW convention for seafarers, which was implemented in EU law in 1994 on the premise that human error was at the basis of the majority of fatal accidents at sea. The question is asked explicitly by multiple respondents: does the EU not care about the well-being of fishers as much as it does for seafarers?

3. SOCIAL SECURITY SCHEMES FOR FISHERS

3.1. Social security in the EU fishing sector

KEY FINDINGS

- Around **125 000 fishers** are fully or partially employed in the EU. Most of them are employed in Spain, Italy and Greece. Large fisheries workforces also exist in Portugal, France and Croatia. More than half of the fishers work in the small-scale fisheries sector.
- EU Member States are responsible for regulating and financing their own social security systems. The EU retains **shared competence in the coordination of social security systems** between Member States (Articles 3, 4, 48 TFEU).
- EU fishers in the large-scale fishing fleet work most often under **standard employment** relationships and are protected by regular social security schemes. In the small-scale fisheries sector, the status of **self-employment, part-time and unpaid workers** are prevalent.
- **Self-employees** in the EU – including 80 000 fishers in the small-scale fishing sector – **remain uncovered** for some risks including unemployment, sickness and occupational accidents, although voluntary options have been introduced in recent years.

Social protection systems should cover people against the financial implications of social risks, such as illness, old age, accidents at work and job loss, so that poverty can be prevented or alleviated, and people can sustain decent living standards. EU legislation states that: *'Social protection systems in their different forms are the cornerstone of the European social model and of a well-functioning social-market economy'*⁵³. For the EU, the concept of social protection encompasses 'systems of different forms' and includes the provision of security for working people, but also the prevention of poverty and the guarantee that all people in the EU enjoy certain minimum living conditions. The present study deals with social security for fishers and is restricted to one precise 'form' of social protection namely social security for people (in this case fishers) at work (in this case fishing). A social protection scheme, as further indicated in EU Council Recommendation (2019/C 387/01), means:

'a distinct framework of rules to provide benefits to entitled beneficiaries which specifies the personal scope of the programme, entitlement conditions, the type of benefit, benefit amounts, benefit duration and other benefit characteristics, as well as the financing (contributions, general taxation, other sources), governance and administration of the programme'.

Meanwhile, Regulation (EC) No 458/2007 on the European system of integrated social protection statistics (ESSPROS) defines a social protection scheme more broadly as *'a distinct body of rules, supported by one or more institutional units, governing the provision of social protection benefits and their financing'*. The present study uses the broader definition of scheme.

⁵³ Council Recommendation of 8 November 2019 on access to social protection for workers and the self-employed (2019/C 387/01), recital 8.

3.1.1. Social security:terminologyand trends

Social security is a commonly used term in the broad realm of social policy and the provision of public services. Social protection can be used to encompass social security or social insurance. These terms refer to *'the public actions taken in response to levels of vulnerability, risk and deprivation which are deemed socially unacceptable within a given polity or society'* (Norton *et al.* 2002, p.21). Accordingly, social security deals with the need to guarantee the safety of people who are at risk to fall - momentarily or persistently - under levels of vulnerability in different periods of their life. Those periods often include time when people are unemployed, of old age, sick, pregnant, or involved in child-rearing (*ibid.*). While social protection deals with the general safeguarding of human welfare, it also aims to develop social inclusion through (i) ensuring that all households are able to provide for basic human development (ii) ensuring a skilled, productive workforce; (iii) reinforcing human solidarity and subsequently contributing to levels of social cohesion; and (iv) providing an environment in which individuals and households can adapt and change livelihood strategies without risking them when those strategies fail (Norton *et al.* 2002, p.23).

Social protection and security can be provided through benefits in kind or in cash. FAO and the World Bank develop the concept of social protection further and stress the critical relevance of policy coherence between social protection systems and sustainable development in tandem with the elimination of extreme poverty and food insecurity. FAO uses the terminology of the World Bank's Inter-Agency Social Protection Assessment (ISPA) and defines social protection as *'the set of policies and programmes aimed at preventing or protecting all people against poverty, vulnerability and social exclusion'*. Here, social protection includes three broad components: social assistance, social insurance and labour market protection:

- Social assistance programmes are publicly provided conditional or unconditional cash or in kind transfers or public works programmes. Social assistance is widely used to tackle poverty and hunger, it does not entail financial contributions from beneficiaries, and it often covers those in informal and rural labour markets.
- Social insurance programmes are contributory programmes that provide cover for designated contingencies affecting household welfare or income.
- Labour market programmes provide unemployment benefits, build skills and enhance workers' productivity and employability.

The definition of social security on the other hand is given by the International Labour Organization (ILO) Convention No. 102, concluded in 1952 at the Geneva International Labour Conference. In this instrument social security is characterised by benefits of different branches, i.e. medical care and income replacement in the cases of sickness, unemployment, old age, employment injury and occupational diseases, family charges, maternity, invalidity and widowhood and the status of an orphan (Eichenhofer 2015, p. 6-7). Thus, despite their common purpose, social protection, social security and social assistance are distinct concepts. Social protection is the wider concept, social security protects against the risk of losing the capacity to earn one's living, whether temporary or permanently, and social assistance involves systems providing a basic level of combating poverty (Schiek *et al.* 2015). While acknowledging that many social protection schemes aim at protecting all citizens whether or not active in the labour market, social security schemes are designed, implemented and financed in function of the labour market dynamics and leave out of scope social assistance and social protection schemes based on residence/citizenship status. Moreover, social security focuses in particular on areas which are mostly impacted by the changing nature of work relationships, namely

unemployment benefits; sickness benefits; maternity and equivalent paternity benefits; invalidity benefits; old-age benefits as well as benefits in respect of accidents at work and occupational diseases.

The Committee on Employment and Social Affairs (EMPL) of the European Parliament is responsible for issues related to employment and all aspects of social policy such as working conditions, social security, social inclusion and the free movement of workers. The European Commission defines social protection as encompassing the different systems *that 'provide support to people who cannot earn their income or face additional needs, for instance, because of unemployment, parental responsibilities, sickness, disability or old age'* as indicated on the DG EMPL webpage⁵⁴. This narrow definition of social protection – limited to support people with an income and not necessarily as a mean to eradicate poverty - has been reported as typical for the EU region (see Norton *et al.* 2002).

In 2007, the EU enacted Regulation (EC) No 458/2007 to officially set up the EU system of integrated social protection statistics (ESSPROS) and established a methodological framework for the systematic and comparable collection of social protection statistics. ESSPROS recognises the lack of a universally accepted definition of the scope of social protection. For the purposes of data collection and policy analysis ESSPROS uses the definition of the Regulation that set it up, and defines social protection as:

'all interventions from public or private bodies intended to relieve households and individuals of the burden of a defined set of risks or needs, provided that neither a simultaneous reciprocal arrangement nor an individual arrangement is involved'.

The list of risks or needs that may give rise to social protection is, by convention, as follows:

- Sickness/healthcare: Income maintenance and support in cash in connection with physical or mental illness, excluding disability. Healthcare intended to maintain, restore or improve the health of the people protected irrespective of the origin of the disorder.
- Disability: Income maintenance and support in cash or kind (except healthcare) in connection with the inability of physically or mentally disabled people to engage in economic and social activities.
- Old age: Income maintenance and support in cash or kind (except healthcare) in connection with old age.
- Survivors: Income maintenance and support in cash or kind in connection with the death of a family member.
- Family/children: Support in cash or kind (except healthcare) in connection with the costs of pregnancy, childbirth and adoption, bringing up children and caring for other family members.
- Unemployment: Income maintenance and support in cash or kind in connection with unemployment.
- Housing: help towards the costs of housing
- Social exclusion not elsewhere classified: Benefits in cash or kind (except healthcare) specifically intended to, where classified, combat social exclusion where they are not covered by one of the other functions (Article 2b, ESSPROS Manual and User Guidelines 2019, p.8).

For ESSPROS, benefits granted within the framework of social protection are limited to a) cash payments to protected people, b) reimbursements of expenditure made by protected people, and c) goods and services provided in kind to protected people. In the EU, social security for people and their

⁵⁴ see <https://ec.europa.eu/social/main.jsp?catId=1063&langId=en>

dependents is hence usually ensured through cash payments benefits to replace at least a portion of the income lost due to old age, disability, or death; sickness and maternity; work injury; unemployment. The second form of support is through services such as hospitalisation, medical care, and rehabilitation (i.e. benefits in kind).

The concept of social security branches is also relevant. According to Article 3 of Regulation 883/2004 on the coordination of social security systems, the 'matters covered' are:

- (a) sickness benefits;
- (b) maternity and equivalent paternity benefits;
- (c) invalidity benefits;
- (d) old-age benefits;
- (e) survivors' benefits;
- (f) benefits in respect of accidents at work and occupational diseases;
- (g) death grants;
- (h) unemployment benefits;
- (i) pre-retirement benefits;
- (j) family benefits.

As per EU Council Recommendation of 8 November 2019 on access to social protection for workers and the self-employed 2019/C 387/01, social protection is defined as the set of schemes based on solidarity, addressing the traditional social risks and defined also as 'branches' of social security, as follows:

- (a) unemployment benefits;
- (b) sickness and healthcare benefits;
- (c) maternity and equivalent paternity benefits;
- (d) invalidity benefits;
- (e) old-age benefits; and
- (f) benefits in respect of accidents at work and occupational diseases.

Social security contingencies of family benefits and social assistance are not covered in this last legislation. In this sense, the present study similarly recognises the several systems that include social protection but applies to the domains which are often related to participation in the labour market or protection from loss of work-related income upon the occurrence of a certain risk. In the same vein, the present study does not apply to the provision of access to social assistance for fishers, minimum income schemes or programmes for the inclusion of fishers excluded from the labour market. The study analyses social protection schemes based on Council Recommendation 2019/C 387/01 list of branches.

Global and EU social security trends

Social protection systems worldwide have steadily improved over the last decades. The World Bank estimates that since the onset of the 21st century, social assistance coverage has grown by 5.8% in low-income and lower-middle-income countries and by 12.7% in upper-middle-income and high-income countries (World Bank Group 2022). Despite this progress, much of the current global population is not covered by any social protection system or enjoys only limited social protection benefits. Estimations before the COVID-19 pandemic reported that more than half of the world's population (almost 4 billion people) lives without any form of social protection, whereas only 30,6 % of the global working-age population has legal access to comprehensive social security systems and 69,4 % are covered partially or not covered at all (ILO 2021). It is also estimated that currently more than 70% of unemployed workers receive no unemployment benefits, almost 66% of mothers with new-borns are denied maternity benefits, almost 30% of older persons have no access to pensions and 40% of people lack

access to essential health services (Ortiz *et al.* 2019). According to the FAO, most of these excluded people are small-scale, agricultural workers, pastoralists, fishers or forest-dependent people residing in rural and remote disadvantaged areas and generally working in the informal sector (FAO 2018).

In Europe, almost half of the working-age population in 2021 (almost 77 million) was legally covered by a comprehensive social security system, with women's coverage (50%) lower than that of men (55%) (ISSA 2022). Eighty-four per cent of Europe's population was covered by at least one cash social protection benefit, which is almost double the world average at 47% (ILO 2021). The most accessible type of social protection in Europe is old-age pensions corresponding to 97 % of persons of pensionable age receiving it in 2021. Unemployment benefits were however less accessible and only 51 % of unemployed persons received unemployment benefits in 2021 (ISSA 2022).

Despite the diversity in social security schemes, Member States share similar challenges regarding the updating and improvement of their social security systems and the obstacles for achieving an effective, and inclusive social protection in the region. Those challenges or 'megatrends' relate mainly to a) significant demographic changes, resulting in an ageing population and a shrinking workforce; b) rapidly changing types of work and developments in the labour market including an increase in non-standard forms of working; c) digitalisation and technological change; and d) climate change and the social implications of the green transition (European Commission 2023c). Demographic changes due to longer life expectancies, lower birth rates and an elderly population contribute to a shrinking workforce and challenge the current systems for funding social protection based on labour sources. Traditional rules organising the entitlement to social protection tailored to standard employment relationships, implying a long-term, full-time work relationship, are confronted by the rapid emergence of a variety of working relationships including temporary work, part-time work, and casual employment. Workers in non-standard forms of employment and the self-employed commonly face serious obstacles in accessing unemployment benefits, sickness benefits, disability benefits and pensions. Furthermore, these new working relationships are exacerbated by technological advances in automation and digitalisation resulting in different forms of types of employment such as on demand work, voucher-based work, and platform work. Lastly, climate change and the EU green transition are already affecting labour markets, and social protection will have to adapt to labour shortages in key occupations, foster transitions for workers in sectors at risk, minimise energy poverty and support workers impacted by extreme climatic events. In the fishing sector for example, a massive storm in 2019 destroyed many of the Maltese coastal fishing vessels with serious economic impacts in the local economies (STECF 2022). As a result of these megatrends, massive investments in life-long learning, training, up- and reskilling, will have to be organised and adaptations to expand the cover to non-traditional employment relationships and novel risks will need to develop, to guarantee the sustainability of national social protection systems in the EU (European Commission 2023c).

In 2021, social protection expenditure in the EU amounts on average to around 30% of Gross Domestic Product (GDP), of which old-age benefits, mainly pensions, account for almost half of these expenditures⁵⁵. Total expenditure in social protection per head in 2020 varied between around 12 000 EUR in the Netherlands and Sweden to 1 500 EUR in Romania and Bulgaria. In 2021, almost 40% of the EU population in employment were in non-standard forms of work, i.e. with temporary contracts, in part-time work and/or self-employed, facing significant gaps in social protection coverage. In 2022, there was at least one group of non-standard workers in 17 Member States, not covered by any social security scheme at all. The self-employed remain only partially covered in 19 Member States (European Commission 2023c).

⁵⁵ https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Social_protection_statistics_-_social_benefits

3.1.2. Employment in the EU fishing sector

FAO estimated the world's number of people working directly in capture fisheries around the world to over 37 million. Around 18% of these people are women, which shows that the activity is still dominated by a male workforce. In 2020, people were engaged in fishing as full-time workers (34%), half-time (22%), occasional (26%) or in an 'unspecified status' worker (18%). Global trends over the last decades show a reduction in the number of people working in fisheries (FAO 2022).

In the EU, marine fishing is a component of the agriculture primary sector encompassing agriculture, forestry and fishery. The 'agricultural, forestry and fishing' sector refers here to category A in the statistical classification of economic activities in the EU (NACE Rev. 2), which includes workers active in *'the exploitation of vegetal and animal natural resources, comprising the activities of growing of crops, raising and breeding of animals, harvesting of timber and other plants, animals or animal products from a farm or their natural habitats'* (Williams and Horodnic 2018). In 2022, the population of the EU was estimated at 448.4 million inhabitants with around 190 million people employed (full-time and part-time) and almost 9 million (4.7%) employed in agriculture, forestry or fishing.

Most EU Member States have a marine fishing fleet, although the importance of fishing varies widely between countries. Based on data submitted by Member States there were 56 111 active fishing vessels in the EU in 2020 offering direct employment to 124 636 fishers (STECF 2022). Following these figures, only 0.07% of the total workforce in the EU is employed in the marine capture fisheries sector. A relatively high incidence of sectoral employment is found in Croatia, Greece and Malta (0.5% of the country workforce) followed by Estonia, Portugal and Cyprus (0.3%) and finally Spain (0.15%). (Eurofound 2020)⁵⁶ From the almost 125 thousand fishers in the EU, Spain alone employs around one third of the total fishers, and together with Italy, Greece, France and Portugal account for 75% of the total number of EU fishers. At the aggregate level employment, the fisheries sector has been trending downwards over the last decades and consistent with the development of most primary sectors in the EU. Employment decreased over the period 2008-2020; total employment decreased by 2.1% while full-time employment decreased by 10.8% (STECF 2022).

EU employment in fisheries statistics does not reflect the relative importance of the fishing sector in terms of its economic and social contributions to rural areas. While fisheries employment and economic activity is a relatively small component of Member States economies, fishing is still the motor for the social and economic sustainability in many coastal communities (see Natale *et al.* 2013, STECF 2022, p.257, 308, 315, 347). The fishing sector accounts thus for as many as half the local jobs in some EU coastal communities (European Commission 2022).

Remuneration (wages) and employment per fishing fleet⁵⁷

Fixed monthly wages are the traditional remuneration system in most labour economic activities worldwide. Additional incentive systems, in the form of bonus or commissions are common in certain remuneration systems. In incentive systems, the wage of the workers depends on or is supplemented by a proportion of the productivity or revenues of the economic activity involved.

According to Guillen *et al.* (2017), the incentives system plays an important role in fishing, where remuneration systems based on productivity prevail. Fishers are usually paid through shared remuneration systems (also known as lay systems) rather than fixed wages. For example, in the system

⁵⁶ The European Foundation for the Improvement of Living and Working Conditions (Eurofound) is a tripartite European Union Agency established in 1975. Its role is to provide knowledge in the area of social, employment and work-related policies according to Regulation (EU) 2019/127).

⁵⁷ For a detailed account on the impacts of the remuneration system in the fishing sector and fishers working rights and conditions including social security see Guelker (2023).

of wages of the industrial fleet of Saint-Malo in France crews are remunerated with a fixed wage, to guarantee the crew a minimum wage, plus a shared wage to act as an incentive (*ibid.*). In systems where the fishers are solely paid by shared remuneration, fishers are paid with a share of the value of the landings minus the operational costs of the fishing trip, although variations exist on which costs are included. Furthermore, the system applies to both small-scale and industrial large-scale fisheries (Guillen *et al.* 2017). In the EU fishing sector, the share-pay system of remuneration has been reported in the academic literature in France, Spain, Italy, Sweden, Finland and Denmark (as well as in the United Kingdom). In the Basque region in north-eastern Spain, for example, the tuna fishery pays its crew with 50% of the net value of landings (once the landing fee is deduced) (Prellezo and Iriondo 2016). The most common remuneration system in France is based on a share of the revenue minus the operational costs (associated with landing fees, fuel, bait, food and ice) (Guillen *et al.* 2017). Shared remuneration systems allow fishers to obtain higher wages by capturing part of the fisheries rent when the economic performance of the vessel improves, but also lower wages when the fisheries rent decreases. This share remuneration system is still very much in use in the fishing sector (Guelker 2023).

Independent of employment relationships, Salz *et al.* (2005) identified the following types of formal labour input in fishing:

- crew working on board, including the skipper-owner if he works on board;
- rotation crew, i.e. extra crew staying on shore during one trip, but remaining on the pay-roll of the vessel;
- temporary and/or seasonal crew, i.e. labour hired on short term basis and not paid when on shore;
- personnel in administration on shore;
- unpaid labour (e.g. wives or retired fathers of fishers performing administrative, marketing or other support tasks)

These labour inputs are distributed among several fishing fleets. For fisheries management and policy purposes, the EU marine fishing fleet is divided between (STECF 2022):

The **small-scale coastal fleet** (SSCF or SSF) includes all vessels under 12 metres using static gears. According to the fishing gear categories defined by the Data Collection Framework (DCF), these include: 'drift and/or fixed netters', 'pots and/or traps', 'hooks', 'passive gears only', 'other passive gears', 'polyvalent passive gears only', 'active and passive gears.'

The **large-scale fleet** (LSF) segment includes all vessels over 12 metres using static gears and all vessels using towed gears operating predominantly in EU waters. According to the DCF gear definitions these include: 'dredgers', 'demersal trawlers and/or demersal seiners', 'other active gears', 'polyvalent active gears only', 'purse seiners', 'beam trawlers', 'pelagic trawlers.'

The **distant water fleet** (DWF) includes EU registered vessels over 24 metres operating in 'other fishing regions' including EU outermost regions.

The EU fleet classification is thus associated with different types of fishing vessels and gears but also with the kind of enterprise operating them, and to a certain extent with employment relationships. The small-scale fleet is commonly – but not exclusively – operated by small enterprises, where the vessels have a single owner who is often self-employed and work together with other family members. In the large-scale and distant water fleets, larger companies own many vessels, and the fishers have a formal employment relationship with the company for which they work (Eurofound 2020).

Based on statistical data from 2017 and 2020, the studies of Eurofound (2020, p.12-13) and STECF (2022) describe the EU fishing sector employment per fleet as follows:

The largest share of the EU fishers (76 801 or around 50% of the total number of 147 414 recorded in 2017) work in the **small-scale coastal fishing** sector. In this sector the fishers are normally self-employed working with a reduced crew (an average staffing of 1.6 persons per vessel). This is also the type of fishing where unsalaried and unpaid⁵⁸ labour (such as work provided by household collaborators including retired and non-registered fishers) is most common. Depending on national regulations, people involved in unsalaried labour in fisheries do not have an obligation to pay social contributions; yet they represent almost 50% of the overall engaged crew (37 810 workers out of 76 801). In Cyprus for example, all small-scale fishers are considered unsalaried workers with no obligation to pay social security. Unpaid and unsalaried employment in the SSF are particularly important in Cyprus (87.8%), Malta (68.3%), Greece (66.1%), Slovenia (58.4%), Finland (57.8%), Croatia (52.4%) and Estonia (50.9%). It is also above the average level in Poland (42.2%), Denmark (33.9%) and Italy (32.4%) (Eurofound 2020). Part-time work is also prevalent, as indicated by the number of full-time workers⁵⁹, which amounts to 34.5% of total engaged workers (STECF 2022)

Large-scale fishing involves 24% of vessels and 45% of fishers. Unsalaries work is far less common in this category (8.7% of workers), and the average crew is larger (4.3 workers per vessel). Part-time work is less common, with full-time workers making up 78% of the total engaged crew.

Distant water fishing involves a very small fraction of the vessels (around 0.4%) and some 4% of crew, with practically no unsalaried or unpaid labour (only four workers were reported as unsalaried). The average staffing per vessel is 24.4, and working periods are longer, as indicated by the number of full-time workers, which is 12% higher than the overall employed crew in the other fleets.

Employment in the EU fishing sector per Member State and fishing fleet is presented in Annex IV.

3.1.3. Employment relationships in the EU fisheries workforce

The EU does not have a single definition of worker. Most of the EU labour laws give discretion to the Member States to define the notions of worker, employment agreement or employment relationship in accordance with their national law and practice (Szpejna and Boudalaoui-Buresi 2020). As these authors explain, old EU labour directives referred to Member States' definitions of a worker as those *'who have an employment contract or employment relationship as defined by the law, collective agreement or practice in force in each Member State'*. More recently, EU directives such as the Transparent and Predictable Working Conditions (TPWC) and Work-Life Balance (WLB) Directives, supplement the concept of worker by adding the role of interpreters of EU legislation of the Court of Justice of the European Union. In these cases, the directives refer to workers as the ones *'who have an employment contract or employment relationship as defined by the law, collective agreements or practice in force in each Member State, taking into account the case-law of the Court of Justice'* (ibid.).

⁵⁸ Unlike the EU Social Data Framework, this study distinguishes between **unpaid work**, which is informal or undeclared (no tax declaration or social security payment) or done by family members – mainly women – who do not get any monetary compensation for their work, and **unsalaried work**, which is the work of fishers who run their own business or are part of the crew and do not get a fixed salary but their payment is calculated according to a share of their landings called shared-paid fishers (see below under subtitle Remuneration (wages)).

⁵⁹ Note that FTE full-time equivalent (a unit to measure employed persons in a way that makes them comparable although they may work or study a different number of hours per week. The unit is obtained by comparing an employee's or student's average number of hours worked to the average number of hours of a full-time worker or student, see [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Full-time_equivalent_\(FTE\)](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Full-time_equivalent_(FTE))) should not be confused with FTE (full time employment) which is the proportion of fishers working full-time and is used in the Scientific, Technical and Economic Committee for Fisheries (STECF) – Social data in the EU fisheries sector (STECF-19-03) report (see abstract). This report uses the term full time workers as a synonym of FTE in the STECF report.

For Williams and Lapeyre (2017, p.9), the 'standard employment relationship' (SER) is usually defined as *'an employment relationship that is full-time, open-ended, and based on a direct subordinate and bilateral employment relationship between an employee and employer'*. As the authors explain, non-standard forms of employment include four alternative employment groups, which in fisheries can be distinguished between formal dependent waged employment and non-dependent waged employment. Thus, non-standard employment can be classified as (p.9):

Wage dependent non-standard employment:

1. Temporary employment: fixed-term contracts including project- or task-based contracts; seasonal work; and casual work, including daily work;
2. Part-time and on-call employment: normal working hours fewer than full-time equivalents, and includes part-time employment and on-call work, including zero-hour contracts;
3. Multi-party employment relationships, also known as 'dispatch', 'brokerage' and 'labour hire', which covers temporary agency work and subcontracted labour; and
4. Disguised employment, also known as 'dependent', 'sham', 'bogus' or 'misclassified' self-employment.

Wage independent non-standard employment:

5. Undeclared work, which covers any paid activities that are lawful as regards their nature but not declared to public authorities for tax, social security and/or labour law purposes when it should be declared, and
6. Self-employment, referring to persons working in their own business, farm or professional practice and who meet one of the following criteria: works for the purpose of earning profit; spends time on the operation of a business; or is currently establishing a business.

Schoukens and Bruynseraede (2021, p.11) define a worker *'when its work is performed on the basis of a labour contract or subordinated work or work that is carried out in a legal relationship of subordination and thus performed under instruction and control'*. These authors define self-employed workers as all persons who work on their own behalf and not on the basis of a labour contract. The definition of non-standard workers points to people *'working in the framework of an employment relationship with an employer, but whose contract departs from the standard form with regard to the duration of employment, the number of working hours or other terms of the employment relationship'* (see also EU Recommendation (2019/C 387/01), Article 7(a), 2019). When the deviation is in relation to working time, these workers are referred to as 'part-time workers' (the standard being full-time work); when the deviation is determined in terms of the work duration, they are referred as 'fixed term work' (the standard being a permanent labour contract) (p.17,18). In the case of the fishing sector, all these kinds of employment co-exist. Fishers can work under SERs, but also be temporary (seasonally) employed workers, part-time, multiparty employers, perform undeclared work or work under self-employment running their own businesses. EU data collection for the fishing sector covers only partially this information since 2017.

Despite the diverse employment relationships in the EU fishing sector, several main categories are observed. The first one includes fishers engaged on a contract of service (employees) under standard employment relationships and the second, fishers who are paid a share of the proceeds of the catch known as share-paid fishers (see above section on remuneration). Most of these fishermen are self-employed and work in the SSF sector. A third category is known as agency workers. An agency worker is an individual employed by an employment agency under a contract by virtue of which the individual may be assigned to work for, and under the direction and supervision of a person other than the employment agency itself (the hirer, e.g. a vessel owner).

Since 2017, the EU has started to collect data on the employment status of fishers. The latest report (STECF) – Social data in the EU fisheries sector (STECF-19-03) indicates that in addition to fulltime employment and part-time work, Member States have started to report on three categories of fishers, namely: owners (of fishing vessels), employees and unknown status. The analysis of this data is difficult since some Member States reported data for the owners and employees, while others reported full-time and part-time workers and combinations on both (STECF 2019). However, the report finds *‘clear differences in employment status evident between the SSF and larger scale sectors’*. Analysis of the data shows that *‘the majority of people employed in the SSF are owners (54%), followed by employees (38%), while in the LSF, which tend to employ larger crews, only 18% of fishers are owners.’* Furthermore, *‘in the DWF the figure for owners is 0%, presumably reflecting the fact that owners of DWF vessels are large companies and not generally active fishers’* (STECF 2019, executive summary).

Self-employment and economically dependent self-employment in fisheries

The Eurostat Labour Force Survey of 2018 estimated that 61% of the total 222 million people employed in the EU is enrolled in a standard employment relationship at work and 39% in one of the categories of non-standard work or in self-employment. Around 14% were self-employed; 8% were full-time temporary workers; 4% were part-time temporary workers; and 13% were part-time permanent employees (Schoukens & Bruynseraede 2021). The self-employed group is not homogenous and is traditionally divided between workers that voluntarily choose to be self-employed (the majority) and take the risk to become entrepreneurs, and workers who become self-employed because of the lack of other job alternatives (ibid.). Unequal employment conditions are also rather common among the self-employed (Horemans & Marx 2017) and this poses challenges for the design and funding of effective social protection schemes for this workforce. One important challenge linked to social protection is that in the self-employment segment, workers lack typical employment contracts where employers share with employees the responsibility for their working conditions and social protection coverage (Avlijaš 2020). Accordingly, some of the traditional self-employed workforces in the EU have had their own (categorical) social security systems in place, either designed for the whole group of the self-employed or, alternatively, addressing separately the various self-employed groups (tradesmen, artists, free professionals, farmers, etc.). This is the case for fishers in Spain and France where social security is mandatory for fishers and tailored rules apply. Even though the self-employed are protected by legislation and other regulations on health and safety, they generally pay lower social contributions and are less protected by the social security system in EU countries (Spasova and Wilkens 2018). In general, the EU self-employed are less protected than salaried workers in terms of coverage of both ‘statutory’ and ‘effective’ access to social benefits in particular against risks associated with unemployment, sickness and work accidents (ibid.).

In the EU, the share of total employment that is self-employment has been relatively stable for the past decade. However, the increased flexibility of the labour markets associated with social (demographic) and technological changes, have prompted the employment status of EU workers to be clearly more diverse over the last decades (Fondeville *et al.* 2015). As a result, one important group of workers is likely to increasingly fall into an ‘in between’ category between employment and self-employment (Eurofound 2017). Mainly workers that depend on only one client but are formally described as self-employed are common in this in between category. In these cases, the dependence on one client can be interpreted as a situation of subordination that is similar to that of an employed person. As the Eurofound report (2017, p.38) argues, a kind of subordination relation exists *‘while the protection usually associated with being an employee – for instance, in the application of health and safety regulations and social protection – is lacking’*. As the report also explains, EU Member States efforts to improve the protection of workers in the ‘in between’ situation, started in the 1990s. Among these efforts some

Member States introduced different approaches such as legally defining a ‘third category’ of workers with their respective rights and obligations. Spain and Portugal established a specific subcategory for this third group called economically dependent workers. As for Williams and Lapeyre (2017, p.5), this hybrid category covers self-employed workers who do not meet one or more of the following criteria: (1) they have more than one client; (2) they have the authority to hire staff, and (3) they have the authority to make important strategic decisions about how to run the business. In Portugal, the criteria are: (1) the beneficiary of the activity does not own the place of work or the equipment used, and does not fix the working schedule, and (2) the worker is not paid a steady, periodic amount and does not perform a leadership function in the organisation. Thus, in Portugal, the status of economically dependent worker is defined in respect of the amount of the total value of the worker’s yearly activity that benefits a collective entity; when this amount is at least 80%, then the worker is considered economically dependent on the collective entity. Since 2011, the employer/collective entity is required to pay a contribution to the worker’s social security scheme if benefiting from 80% or more of the worker’s yearly activity. In 2012, unemployment benefits were extended to cover economically dependent workers in Portugal (Eurofound 2017, p.40).

Analysing the European Working Conditions Survey, Williams and Lapeyre (2017) report that 4.3 % of total employment in the EU28 in 2015 was economically dependent self-employment. The prevalence of economically dependent self-employment ranged from 9% of total employment in Portugal, and 8% in Italy, Greece and Romania, to 1% in Denmark and Sweden. The prevalence of these workers is significantly linked to professionals, and skilled agricultural, forestry and fishing workers and 22% of all dependent self-employment belong to this sector.

Informal (unpaid) and unsalaried labour

Although it is estimated that informal workers globally make up the largest share of the world's workforce, these workers remain unseen and thus lack social protection. Approximately 61 % of the world’s employed population or roughly two billion people, work in the informal economy (ILO 2023). The World Bank estimates also that about two thirds of the labour force in emerging markets and development economies remains informal (World Bank 2018). Workforce statistics show that informal, undeclared work in the EU and elsewhere is clearly more prevalent in the agricultural, forestry and fishing sector than in other economic sectors.

The number of informal workers in the EU fishing sector is unknown and not registered in official statistics. According to Eurofound (2020), the overall incidence of unpaid labour in the EU is 28.8%, and this highlights the importance of household collaborators as well as unsalaried fishers often with no obligations to pay social insurance. As it is explained, the unpaid group includes for example retired fishers in Croatia, whereas in Cyprus all fishers working in the coastal inshore fishery are considered unpaid labour (see STECF 2019). Of the total number of fishers employed in the EU fishing sector, 50% worked in the SSF and from those at least 36 633 (29%) – not including data from Belgium and France - were estimated as being unsalaried and unpaid labour (STECF 2019). However, these statistics must be taken with extreme caution since some Member States understood unpaid work differently as 1) a synonym of being self-employed, 2) work paid under the shared remunerations system, and 3) unpaid work mostly done by a woman in the fisher’s family, for example taking care of the finances, selling fish, adding value to the capture, repairing fishing gears, etc. (see STFC 2019).

Employment organisations in the EU fisheries sector

The role of EU social partners and collective bargaining is recognised as a key factor in the design and implementation of social protection schemes for workers. These schemes often relate to a given economic sector or subsector, reflecting the organization of the sectoral social dialogue. In other

instances, including sea fisheries, initiatives with cross-sectoral dimensions are in place. Regardless of the case, initiatives from social partners no longer consider solely the social protection benefits inherent to a given contract and take a wider perspective of securing workers' transitions and whole professional careers (Eurofound 2020).

Trade unions and social dialogue in the EU have played an important role in extending social protection to workers in specific sectors, in particular under non-standard self-employment status. The German Artists Social Security Fund, a special social security scheme for self-employed artists and writers within the German Statutory Insurance Scheme is an example. Under this special system, financial contributions are shared between the artists, users, and state subsidies (Tobsch and Eichhorst 2018).

The European sectoral social dialogue committee for sea fisheries (SSDC-F) was established in 1998. As mentioned in Chapter 2, the SSDC-F includes the European Transport Workers Federation (ETF), organising the trade unions, Europêche and COGECA, organising the employer organisations. The ETF represents more than 2.5 million transport workers from 243 transport unions and 41 European countries, in the following sectors: railways, road transport and logistics, maritime transport, inland waterways, civil aviation, ports and docks, tourism and fisheries. Europêche represents the catching sector in Europe. Currently, the Association comprises 16 national organisations of fishing enterprises from the nine EU Member States: Belgium, Germany, Denmark, France, Italy, Malta, the Netherlands, Poland and Spain. COGECA is the united voice of agricultural cooperatives in the EU. It also represents the interests of fisheries cooperatives in Europe through its FISH Working Party which it shares with COPA. Currently, the fisheries representatives come from five countries: Germany, Ireland, Italy, Malta and Slovenia. Hence, the maritime transport union represents fisheries in the sectoral social dialogue committee. A study carried out by Eurofound in 2020 identified 31 fisheries sector trade unions in 11 EU Member States and 57 fisheries sector-related employer organisations and business associations in 21 Member States. Croatia and Greece, countries with large sea fisheries workforces had no fisheries trade unions. Fisheries trade organisations had an overlapping membership domain, covering members in maritime transport or other transport, services or food sectors in addition to fisheries. According to Eurofound, the EU fishing sector's relatively small size regarding the number of workers and the presence of a significant share of self-employed fishers can have an impact on workers representation and collective bargaining systems (Eurofound 2020). As explained, this occurs when:

'First, sector-related trade unions tend to represent workers in other sectors too, or at least in other segments of the fishing or water transport industries. This can also be seen at the EU level, where the ETF is part of the sectoral social dialogue committee. For trade unions, the prevalence of representational overlap often makes the collection of membership data in the sea fisheries sector difficult, since the relevant trade unions may not keep separate records for the sector. On the employers' side, the representational domain is often more focused, and congruence is common (such that the organisation's representational domain corresponds solely to the sea fisheries sector). Second, the role of collective bargaining is limited by the prevalence of small-scale fishing, self-employed fishers and the small overall workforce. Collective bargaining tends to be well-established in the countries with larger overall sectoral employment' (p. 15)

Eurofound (2020) explains that the SSF in the EU with prevalence of mostly self-employed workers with the help of family members running their family business or with a limited number of employees, hinders the organisation of unions. On the contrary, trade unions in the EU large-scale fisheries are more common and present in countries where marine fishing is more developed or have a distant water fleet. The incidence of self-employed workers, who run their own enterprises, means that business associations have no role in social dialogue or arrangements for setting wages or working

conditions. These conditions reduce the scope for collective bargaining as a means of regulating employment and social security schemes (ibid.).

Despite the lack of unions advocating and negotiating fishers working conditions including social security, the role of customary local fisheries organisations such as the French '*Prud'homies*' or the Spanish '*Cofradas*' should be mentioned. These fishers' guilds still have an important role to play in mutual assistance and to some extent in supporting social security of fishers.

3.2. The international and EU legal framework for social security

KEY FINDINGS

- Social security for fishers is underpinned by an increasing number of **international and EU instruments** based on principles ranging from fundamental human rights to the need to combat poverty and social exclusion.
- Social security in the EU is fundamentally a **national responsibility** of each Member State.
- The core of the **EU legal framework on social protection** are Articles 45, 48 TFEU on free movement of workers as well as Regulation 883/2004 on the coordination of social security systems.
- While Council Directive (EU) 2017/159 on the **implementation of the ILO Work in Fishing Convention**, 2007 does not distinguish between fishers paid with fixed salaries and share fishers, it applies only to fishers under work agreements excluding almost a half of small-scale EU fishers and one third of all the EU fishers.

3.2.1. Social protection: international and EU standards

International recognition of the importance of social protection has significantly increased thanks – to a certain extent – to various global initiatives among multilateral, bilateral, and civil society partnerships. International instruments for social protection are identified as follows:

The Universal Declaration of Human Rights

Social security is a human right. As per Article 22 of the Universal Declaration of Human Rights (UDHR) proclaimed by the United Nations General Assembly (General Assembly resolution 217 A) in 1948, *‘Everyone, as a member of society, has the right to social security and is entitled to realisation, through national effort and international cooperation and in accordance with the organisation and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality’.*

Articles 23 and 24 of the UDHR further concerns the rights of workers. As per Article 23:

‘Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment’, ‘Everyone, without any discrimination, has the right to equal pay for equal work, Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection’, ‘Everyone has the right to form and to join trade unions for the protection of his interests’.

As per Article 24, *‘Everyone has the right to rest and leisure, including reasonable limitations of working hours and periodic holidays with pay’.*

The UN Sustainable Development Goals

One important international instrument in the progress on social protection globally was the adoption by the UN Member States of the 2030 Agenda for Sustainable Development in 2015. As part of the Sustainable Development Goals (SDGs), Target 1.3 of SDG 1 *‘to end poverty in all its forms, everywhere’*,

calls upon states to ‘implement nationally appropriate social protection systems and measures for all, including floors, and by 2030 achieve substantial coverage of the poor and vulnerable’.

The ILO Social Security (Minimum Standards) Convention, 1952 (No. 102)

The convention covers nine branches of social security and sets their minimum standards. This Convention has been ratified by 48 ILO Member States since its entry into force in 1952. The last country to have ratified Convention No. 102 was Honduras, in 2012⁶⁰.

The ILO Social Protection Floors Recommendation, 2012 (No. 202)

The International Labour Organization recommends its members, in accordance with national circumstances, to establish as quickly as possible and maintain their social protection floors comprising basic social security guarantees. The recommendation provides guidance for the establishment and maintenance of social protection floors and their implementation within strategies for achieving comprehensive social security systems⁶¹.

The International Covenant on Economic, Social and Cultural Rights (ICESCR)

The ICESCR is a multilateral human rights treaty adopted by the United Nations General Assembly (GA) in 1966 and came into force in 1976. This treaty together with the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (1966), make up the International Bill of Human Rights. It ensures the enjoyment of economic, social and cultural rights, including the rights to:

- education;
- fair and just conditions of work;
- an adequate standard of living;
- the highest attainable standard of health; and
- social security.

The covenant is monitored by the United Nations Committee on Economic, Social and Cultural Rights. As of July 2020, the Covenant has 117 parties and all EU Member States have ratified it. In this treaty the Article 9 of Part III is of relevance for social security. According to this Article:

‘Everyone has the right to social security, including social insurance. It requires parties to provide some form of social insurance scheme to protect people against the risks of sickness, disability, maternity, employment injury, unemployment or old age; to provide for survivors, orphans, and those who cannot afford health care; and to ensure that families are adequately supported. Benefits from such a scheme must be adequate, accessible to all, and provided without discrimination’⁶².

The European Social Charter (European Treaty Series or ETS No. 035)

The European Social Charter is an instrument of the Council of Europe treaty that sets out a comprehensive list of commitments on economic, social and cultural rights that all parties to the Charter are legally bound to implement. The treaty entered into force in 1965 and a revised version (ETS No. 163) entered into force on 1 July 1999. Of the rights guaranteed by the Charter, the right to work, the right to organise, the right to bargain collectively, the right to social security, the right to social and medical assistance, the right to the social, legal and economic protection of the family, and

⁶⁰ see https://www.ilo.org/secsoc/areas-of-work/legal-advice/WCMS_205340/lang-en/index.htm

⁶¹ see https://www.ilo.org/secsoc/areas-of-work/legal-advice/WCMS_205341/lang-en/index.htm

⁶² see https://treaties.un.org/doc/treaties/1976/01/19760103%2009-57%20pm/ch_iv_03.pdf

the right to protection and assistance for migrant workers and their families are regarded as particularly significant (Part II). The European Committee on Social Rights monitored the implementation of this treaty⁶³.

The European Code of Social Security (ETS No. 048)

The Code entered into force in 1968 and, as of 2023 it has been ratified by 21 European countries. The Code aims at encouraging the development of social security in all member States of the Council of Europe and sets up a series of standards which Parties undertake to include in their social security systems. The Code defines norms for social security coverage and establishes minimum levels of protection which Parties must provide in such areas as medical care, sickness benefits, unemployment benefit, old-age benefits, employment injury benefits, family benefits, maternity benefits, invalidity benefits, survivors' benefits, etc. The Code was based on the ILO Social Security (Minimum Standards) Convention but provides higher social security benefits levels.⁶⁴

The European Semester

Article 2 of the TFEU identifies the promotion of a high level of social protection as a key task. The EU Commission uses the European Semester process to monitor the social protection systems of Member States and offers country-specific recommendations where necessary on the use of their social budgets. The European Semester was introduced in 2011 as the EU's response to the weaknesses in the EU's economic governance revealed during the financial and economic crisis. The European Semester guarantees that Member States examine their economic, social and budgetary plans with their EU partners in the first half of every year – hence the term Semester – so that national action can be accordingly taken in the second part of the years, notably with the adoption of the budgets for the subsequent year.

The European Union Social Security Coordination

As for EU standards, Articles 45, 48 TFEU on free movement of workers and the legal basis for the coordination of social security systems, as well as Regulation 883/2004, are the core of the EU legal framework on the matter. The EU retains competence on the coordination of social security systems between Member States. This is done through EC Regulation 883/2004, which is supplemented by EC Regulation 987/2009, laying down the procedure for the implementation of the Regulation through cooperation between Member States. The European Commission webpage on Social security coordination⁶⁵ describes the principle of the coordination as the right of workers to be covered by social protection only by the legislation of one country at a time so that social contributions and benefits are not duplicated. The decision on which country's legislation applies to a worker is made by the competent social security institutions and not by the worker. Also, workers have the same rights and obligations as the nationals of the country where they are covered. When workers claim a benefit, their previous periods of insurance, work or residence in other countries are taken into account if necessary. Finally, workers entitled to a cash benefit from one country, may generally receive it even if they are living in a different country. The coordination of social security facilitates the free movement of people within the EU.

For the specific case of fishers, Art. 11 (4) of EC Reg 883/2004 states:

⁶³ see <https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treaty-num=035>

⁶⁴ see <https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treaty-num=048> and https://www.coe.int/t/dg3/social_policies/source/social_security/shortguide_en.pdf

⁶⁵ <https://ec.europa.eu/social/main.jsp?catId=849>

‘For the purposes of this Title [Determination of the Legislation Applicable], an activity as an employed or self-employed person normally pursued on board a vessel at sea flying the flag of a Member State shall be deemed to be an activity pursued in the said Member State. However, a person employed on board a vessel flying the flag of a Member State and remunerated for such activity by an undertaking or a person whose registered office or place of business is in another Member State shall be subject to the legislation of the latter Member State if he resides in that State. The undertaking or person paying the remuneration shall be considered as the employer for the purposes of the said legislation.’

The European Pillar of Social Rights

The European Pillar of Social Rights was jointly proclaimed by the European Parliament, the Council and the Commission in November 2017. The principles of the Pillar are structured around three categories, one of which is social protection and inclusion. The Pillar declares 20 principles and rights to support the fair and well-functioning of EU labour markets and welfare systems. The third chapter of the Pillar covers principles most relevant to social protection and inclusion. Principle 12 states that ‘regardless of the type and duration of their employment relationship, workers, and, under comparable conditions, the self-employed have the right to adequate social protection’.

The European Pillar of Social Rights - Action Plan

In 2021, the European Commission presented its action plan to fully implement the Pillar of Social Rights, turning the principles into concrete actions. The Action Plan put forward three 2030 targets in the areas of employment, adult education and poverty, building on the Europe 2020 strategy for smart, sustainable and inclusive growth. The 2030 poverty target aims at reducing the number of people at risk of poverty or social exclusion by at least 15 million by 2030, out of which at least 5 million children.

The European Pillar of Social Rights Action Plan also announced a number of initiatives to support the implementation of the Pillar principles⁶⁶.

In the area of social protection and inclusion, relevant initiatives include:

- the Council Recommendation establishing a European Child Guarantee;
- proposal for a Council Recommendation on minimum income;
- a European Platform on Combating Homelessness;
- an EU report on access to essential services, an initiative on long-term care;
- a High Level Expert Group to study the future of the welfare state;
- a guidance on the use of *ex ante* distributional impact assessments.

3.2.2. The international framework for social protection in the fishing sector

The issue of conventions for the fishing sector by the International Labour Organization emerged after the Second World War, probably as a result of the rapid expansion of the fishing industries and their technological innovations. The first of these conventions, the Discrimination (Employment and Occupation) Convention of 1958, (No.111), established the principle that there should be no discrimination in any employment or occupation on certain grounds. This convention was:

- Minimum Age (Fishermen) Convention (No. 112) of 1959, aiming to protect children’s labour in fishing and prohibit their work under the age of 15.

⁶⁶ The Action Plan can be downloaded from <https://op.europa.eu/webpub/empl/european-pillar-of-social-rights/en/>

- Medical Examination (Fishermen) Convention (No.113) of 1959, providing standards for the medical examination of fishermen taking into account the age of the fisherman and the work to be undertaken.
- Fishermen's Articles of Agreement Convention (No.114) of 1959, which established a system of articles of agreement for fishermen to be signed by the owner of a fishing vessel, or the owner's representative, in which their conditions of employment are clearly set out.
- Fishermen's Competency Certificate Convention (No.125) of 1966, setting subjects to be included in curricula such as general nautical subjects, knowledge of international regulations, practical navigation, safe working practices, the operation of engines and other equipment, fishing techniques as appropriate, and the amount of theoretical and practical training to be undergone.
- Accommodation of Crews (Fishermen) Convention (No.126) of 1966, aiming to ensure adequate security, including emergency escapes, protection from the weather, ventilation of sleeping quarters, provision of sanitary and cooking areas as well as the provision of medicine chests and sick bays.
- The Work in Fishing Convention (also referred to as the ILO Convention C188), adopted at the 96th Conference of the ILO in 2007, consolidated the existing ILO Conventions with the exception of the Fishermen's Competency Certificate Convention (No.125), as detailed below.

The ILO Work in Fishing Convention (C188)

In 2002 the Governing Body of the ILO, considering the need to update older instruments, decided to place on the agenda of the International Labour Conference an item concerning a comprehensive standard (a Convention supplemented by a Recommendation) on work in the fishing sector. Seafarers and merchants had in the past received protection through other ILO maritime standards (standards that applied, or could be applied, to fishing), but the ILO was aware that the Maritime Labour Convention (MLC 2006) concerning working and living conditions of seafarers would exclude fishing vessels and fishers from its scope. ILO realised the need for a standard exclusive to the fishing sector that would also reflect the -often unique -characteristics of commercial fishing. In 2007, the ILO adopted by an overwhelming majority, the Work in Fishing Convention (No. 188) and its accompanying Work in Fishing Recommendation (No. 199). The Convention provides universal labour standards relevant to all fishers, whether on large vessels on the high seas and on international voyages or in smaller boats operating in coastal waters close to shore.

The Convention aims at ensuring that *'fishers have decent conditions of work on board fishing vessels with regard to minimum requirements for work on board; conditions of service; accommodation and food; occupational safety and health protection; medical care and social security'*. It provides States with some flexibility in the form of possible exclusions of limited categories of fishers and vessels, and progressive implementation of certain provisions while they commit, over time, to improving conditions of all fishers. The Convention stresses the importance of social dialogue and tripartite consultation. Many provisions can only be implemented following 'consultation' with representative employers' and workers' organisations (in particular, representative organisations of fishing vessel owners and fishers).

As mentioned above, the Convention revised the Minimum Age (Fishermen) Convention, the Medical Examination (Fishermen) Convention, the Fishermen's Articles of Agreement Convention, and the Accommodation of Crews (Fishermen) Convention. In addition, it has covered other important questions such as health and safety at work, assignment and hours of rest, crew list, repatriation, recruitment and placement, and social security. In 2023, only 21 countries have ratified the Convention,

including Member States Denmark, Estonia, France, Lithuania, The Netherlands, Poland, Portugal and Spain. The Convention

The FAO Code of Conduct for Responsible Fisheries (CCRF)

The CCRF is an instrument that sets out international principles and standards to ensure effective conservation, management, and development of aquatic resources. The CCRF is voluntary, although fragments of it are based on relevant international legislation. Relevant parts for working conditions of fishers are:

- 6.17 States should ensure that fishing facilities and equipment as well as all fisheries activities allow for safe, healthy and fair working and living conditions and meet internationally agreed standards adopted by relevant international organizations.
- 6.18 Recognizing the important contributions of artisanal and small-scale fisheries to employment, income and food security, States should appropriately protect the rights of fishers and fishworkers, particularly those engaged in subsistence, small-scale and artisanal fisheries, to a secure and just livelihood, as well as preferential access, where appropriate, to traditional fishing grounds and resources in the waters under their national jurisdiction.
- 8.1.5 States should ensure that health and safety standards are adopted for everyone employed in fishing operations. Such standards should be not less than the minimum requirements of relevant international agreements on conditions of work and service.

The Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication (FAO SSF-Guidelines)

Endorsed in June 2014, the FAO SSF-Guidelines constitute the first internationally agreed instrument dedicated exclusively to small-scale fisheries. It provides consensus principles and guidance for the sustainable development of the small-scale fisheries sector and helps to realise this sector's full contribution to food security and poverty eradication. The Guidelines support the progressive realisation of the right to adequate food within the context of sustainable fisheries management. Chapter 6 entitled 'Social Development, Employment and Decent Work' promotes access to social protection, decent working conditions, and the economic inclusion of small-scale fishers in broader development processes. The Voluntary Guidelines claim that small-scale fishers should be incorporated into formal social security systems, from which they are typically excluded because they operate mostly as self-employed or in the informal economy. The key passage in the Voluntary Guidelines regarding social protection expresses: 'States should promote social security protection for workers in small-scale fisheries. They should take into account the characteristics of small-scale fisheries and apply security schemes to the entire value chain.'

3.2.3. Role of the EU in the implementation of international rules for social protection and for social protection of fishers

Within the EU, social security is fundamentally a national responsibility of each Member State. Article 21 TFEU asserts that the EU's external action should be guided by the principle of '*the universality and indivisibility of human rights*.' All countries are responsible to freely decide who is to be protected under their legislation, which benefits are granted and under what conditions. Member States' social security schemes are thus highly dependent on national economic, taxation and income redistribution models. Across the EU, social security programmes differ greatly in their design and generosity, with differences in the size of the budget and the way it is allocated, the source of financing, the degree of coverage of

risks and the role of the social partners. The EU respects the subsidiarity principle and recognises the large differences between the social protection systems of the Member States.

Legally, Article 153(4) TFEU guarantees the right of Member States to determine the fundamental principles of their social security systems. The European Treaty of 1957 only offered a legal basis for harmonisation of social policies in relation to the free movement of labour. Following the Maastricht Treaty in 1992, the EU supported Member States' activities concerning social security schemes. According to Cornelisse and Goudswaard (2002), the Treaty of Amsterdam of 1997 and the inclusion of the Social Protocol into the basic Treaty *'were a step forward in the social domain in general but provide no basis for involvement of the EU with social protection levels in the Member States.'* However, the authors argue that with the Social Protocol, Member States accepted a certain degree of commitment in terms of social protection expressed in two recommendations accepted by the European Council in 1992. The first recommendation, of June 1992, deals with common criteria concerning sufficient resources and social assistance in social protection systems (92/441/EEC). The second recommendation, of July 1992, explicitly addresses the *'convergence of social protection objectives and policies'* (92/442/EEC). Cornelisse and Goudswaard (2002), explain that the arguments given for convergence were as follows:

- differences in social security may hamper the free movement of workers and exacerbate regional imbalances;
- convergence seeks to guarantee the continuation and stimulate the development of social protection within the context of the completion of the internal market; and
- Member States face common problems, such as ageing of the population, unemployment, changing family structures and poverty; common objectives must act as pointers to the way social protection systems are modified to take account of these problems.

The recommendation further stipulates broadly defined goals, but *'without prejudice to the powers of the Member States to establish the principles and organizations of their own systems'*. The 1998 Employment Guidelines, as a result of the Jobs Summit in Luxembourg at the end of 1997, can partly be seen as an implementation of the convergence strategy. However, countries still remain autonomous in regard to the design and financing of their systems (Goudswaard and Vording, 1996).

The EU's role is limited to issuing recommendations based on the principles of the European Pillar of Social Rights. A recent example is the Council Recommendation of 8 November 2019 on access to social protection for workers and the self-employed 2019/C 387/01. The directive offers minimum universal protection for all workers in the EU including those in short-term and casual employment relationships. It also enshrines some basic rights such as the right to a reasonable probationary period. However, it should be noticed that once a recommendation is implemented, its impact is automatically assessed.

Role of the EU in implementation of ILO Work in Fishing Convention (C188)

In December 2016, the Council of the EU formally adopted the EU Directive 2017/159/EU - Work in Fishing Convention giving legal effect to an agreement negotiated by the European social partners - SSDC-F - to implement the ILO Work in Fishing Convention, 2007 (No. 188). The implementation of the agreement followed the provisions in Articles 154 and 155 TFEU. The EU converted the agreement with the social partners into binding legislation with an EU Directive that applies to all fishers employed on fishing vessels flying the flag of an EU Member State. Furthermore, the Directive applies to all fishermen working in any capacity under a contract of employment or in an employment relationship on all fishing vessels engaged in commercial fishing.

The purpose of the Directive is to implement the Agreement so as to set out the responsibilities of fishing vessel owners, skippers and fishermen; the minimum personnel requirements for work on

fishing vessels (minimum age, medical examination); the conditions of service (manning, hours of work and rest, crew list, fisherman's work agreement, repatriation, private labour market services); and occupational safety and health requirements (food and accommodation, health protection and medical care, protection in case of work-related sickness, injury or death, occupational safety and health and accident prevention).

One of the minimum requirements for work on board a fishing vessel is a valid medical certificate (Article 7 of the Agreement). In the interest to facilitate this requirement, the social partners, *Europêche* and the European Transport Workers' Federation (ETF), together with the International Maritime Health Association (IMHA) issued guidelines on the medical examinations of fishers in 2021. The guidelines determine criteria for the medical fitness for fishers and include information on occupational risks faced by fishers.

Member States were expected to bring into force the laws, regulations and administrative provisions necessary to comply with the Directive by 15 November 2019. Moreover, Member States must determine what penalties are applicable when national provisions are infringed or not met. Furthermore, Member States may maintain or introduce provisions more favourable to workers in the sea fishing sector than those laid down in this Directive.

Exclusion of fishers from EU labour Directives

Two EU labour Directives relevant for working conditions (but not directly concerning social security) exclude fishermen from their provisions: Directive 2019/1152 on Transparent and Predictable Working Conditions and Directive 2003/88/EC or Working time Directive.

According to the European Commission's webpage, Directive 2019/1152 provides extensive and modernised rights for all workers in the EU, particularly addressing insufficient protection for workers in more precarious jobs, while limiting the burden on employers and maintaining flexibility to adapt to a changing labour market. All EU workers' rights include among other things: written and early complete information on essential aspects of their work, limited length up to six months of probationary periods at the beginning of the job, detailed information on working hours, fixed amount of working hours, training. The Directive ensures that these rights cover workers in all forms of work, including those in the most flexible non-standard and new forms of work, casual work, domestic work, voucher-based work or platform work. However, Member States may exclude from the application of the directive or certain provisions of it:

- Workers whose set and actual working time is equal to or less than an average of three hours per week;
- Certain groups of workers, such as civil servants, the armed forces or judges;
- Natural persons in households acting as employers where work is performed for those households; and
- Seafarers or sea fishermen.

Similarly, Directive 2003/88/EC or Working time Directive to protect public and private sector workers from the health and safety risks associated with excessive or inappropriate working hours, requires EU countries to guarantee the following rights for all workers: a limit to weekly working hours, which must not exceed 48 hours on average, including any overtime and a minimum daily rest period of 11 consecutive hours in every 24. The Directive applies to all sectors of economic activity but not to self-employed workers. It does not apply to seafarers, mobile workers, and workers on board a seagoing fishing vessel either.

The European Maritime, Fisheries and Aquaculture Fund (EMFAF) (Regulation (EU) 2021/1139)

EMFAF⁶⁷ is one of the five European Structural and Investment Funds of the European Union and the financial instrument that supports the implementation of the CFP. EMFAF is the successor of the Financial Instrument for Fisheries Guidance (FIFG), the European Fisheries Fund (EFF) and the European Maritime and Fisheries Fund (EMFF). The total budget for the period 2021-2027 is EUR 6 108 billion and supports initiatives for:

- the transition to sustainable and low-carbon fishing
- the protection of marine biodiversity and ecosystems
- the supply of quality and healthy seafood to European consumers
- the socio-economic attractiveness and the generational renewal of the fishing sector, in particular as regards small-scale coastal fisheries
- the development of a sustainable and competitive aquaculture contributing to food security
- the improvement of skills and working conditions in the fishing and aquaculture sectors
- the economic and social vitality of coastal communities
- innovation in the sustainable blue economy
- maritime security towards a safe maritimespace
- international cooperation towards healthy, safe and sustainably managed oceans

While social protection of fishers is set out by each Member State and independently from EMFAF financing, the funds can be used to support certain CFP conservation goals under a few exceptional circumstances that require fishing activities to stop temporarily. In these specific cases, the EMFAF can support financial compensation to fishers for this temporary cessation to alleviate their economic losses.

Compensation is possible if the fisher's cessation of activities is caused by:

- measures for the conservation of marine biological resources (e.g. a temporary biological recovery closure for a given species and/or in a given area);
- an interruption, due to reasons of force majeure, to the application of a 'sustainable fisheries partnership agreement' (i.e. an agreement signed between the EU and a non-EU country to allow EU fishing vessels to fish in the non-EU country's waters);
- a natural disaster;
- an environmental incident; or
- a health crisis (including the COVID-19 pandemic).

Temporary cessations stemming from conservation measures must lead to fishing effort being reduced based on scientific advice, to ensure their influence to protect or restore marine resources. Compensation for the temporary cessation of fishing activities must be targeted and should not replace the structural adaptation of fishing fleets where it is needed. Funding for this temporary cessation cannot be granted for more than 12 months per vessel during the EMFAF's period of programming. The EMFAF can grant financial compensation to fishers if they permanently cease their fishing activities. The fishing capacity eliminated as a result of this support is then permanently

⁶⁷ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32021R1139&qid=1702492420177>

removed from the fleet. Permanent cessation can be carried out either by scrapping the fishing vessel or by decommissioning it and readapting it for other activities (exceptions are made for recreational fisheries purposes).

The European Maritime and Fisheries Fund (EMFF) played a crucial role during the fisheries sector periods of cessations over the COVID-19 pandemic between 2020 and 2021 (see EU national chapters in STECF 2022).

3.3. Social security for fishers by EU Member State: mapping the landscape

KEY FINDINGS

- Around 40% of all EU fishers work under standard employment relationships and are covered by **national social security schemes**.
- Eight Member States have **special laws or regimes for the social security of fishers** and the services are provided by institutions especially in charge.
- Recognizing the arduous and hard work of fishermen, **early retirement** is a common practise in the branch of old-age pensions in special schemes for fishers.
- While data on social security is missing under the EU Data Collection Framework, EU **small-scale fishers** (almost 80 000 recorded in 2017) work almost exclusively under non-standard employment relationships and are **partially covered, voluntary covered or uncovered** by social security schemes.

As said above, EU Member States have their own social security schemes and laws for workers. EU Member States are responsible for individually regulating and financing their own social security systems and organise their programmes according to their different historical and political legacies, institutions and budgets. The range of security schemes vary significantly among them. For example, self-employed workers can be excluded from formal access to social security schemes in some Member States while they are able to join them on a compulsory or voluntary basis in other cases. According to Eichenhofer (2015, p.7), the Constitutions of 10 EU Member States provide special clauses on social security. These are the Czech Republic (Article 26 of the Czech Charter of Fundamental Rights), Greece (Article 22), Italy (Article 38), Latvia (Article 10), Lithuania (Article 52), Luxembourg (Article 11), Romania (Articles 34, 41, 47), Slovenia (Article 50), Spain (Article 49) and Sweden (Article 2(2)). By doing so, these countries impose on their legislation the commitment to create, maintain and develop systems of social security and define the social risks and the persons covered.

For the purpose of social security analysis, employment in the EU fisheries sector can be divided in two segments independently of their remuneration system (fixed wage or share-paid system): a) fishers working in standard employment relationships (SERs), and b) fishers working in non-standard employment relationships or self-employed including part-time work (mainly fishers with share-paid systems).

3.3.1. Fishers in standard employment relationships

Fishers under SERs are almost exclusively workers in large-scale fishing which involves 24% of EU vessels and 45% of fishers in the EU. These fishers work under formal working contracts often with a fishing company and are paid with fixed salaries with or without a bonus. Almost 80% of these fishers are full-time employees and their social security schemes – with a few exceptions in some Member States – follow the national standard schemes for workers. According to the EU's Mutual Information System on Social Protection (MISSOC) these exceptions concern⁶⁸:

⁶⁸ MISSOC is the Mutual Information System on Social Protection and promotes the continuous exchange of information on social protection among the EU Member States, see: <https://www.missoc.org/>

- Unemployment

In Croatia, unemployment insurance benefits cover fishermen only in a voluntary basis.

In Poland, the compulsory unemployment scheme does not apply to workers in agricultural economic activities including fisheries.

- Sickness – cash benefits

In Portugal, the normally compulsory sickness (health) insurance is voluntary for fishermen working on vessels that belong to foreign or binational companies.

In Ireland, the compulsory sickness insurance scheme is voluntary for fishermen.

- Accidents at work and occupational diseases

In Cyprus, employed fishermen working for a father or a mother are excluded from the compulsory work accident's insurance scheme.

- Old-age pensions

In Italy, fishers are considered to be workers in arduous and hazardous jobs and are entitled to early retirement.

In Portugal, fishers are considered as workers in arduous and hazardous jobs and are entitled to early retirement. Sea fishermen may retire from 55.1 years if they have 15 years of contributions and at least 30 years of service where 150 days of work are considered as one year. The age at which the old-age pension can be claimed is calculated by multiplying the years of fishing service by 0.33.

In Estonia, early retirement is available for certain professional groups including fishers whose professional abilities have declined before the normal retirement age, provided that they have the required pensionable service (from 15 to 25 depending on the profession).

In Cyprus, fishers employed in the service of a father or a mother are not obliged to take part in the retirement compulsory old-age pension system.

Eight Member States have special laws or regimes for the social security of fishers and the services are provided by institutions especially in charge of the social protection of workers at sea, as detailed below:

Belgium

According to the Belgian Social Secretariat (Besox), the fishing sector has 382 recognised sea fishermen. Special regimes for salaried workers' social protection include miners, seafarers, civil aviation personnel and professional journalists but not fishers. In 2003, Belgium enacted the law 'Maritime Fisheries Employment Contract Act' regulating the maritime employment contract for maritime fishing and improving the social status of fishermen. The regulation defines fisherman as *'any person employed as a crew member of a fishing vessel in execution of an employment contract concluded with the shipowner.'* Fishers employed as crew are subject to the special social security regime for seafarers in merchant shipping. This social security regime for seafarers has its own rules about social security contributions, unemployment, pensions, illness and disability insurance and work accidents. The social security regime for seafarers is managed by the management committee of seafarers within the National Social Security Office (NSSO) supervised by the federal ministers for Social Affairs and Employment.

The Maritime Fisheries Employment Contract Act of 2003 guarantees income security for fishermen. Art. 3. of the Act states that only recognised sea fishermen may be employed as crew members on a fishing vessel under an employment contract for sea fishing duties. The Belgian crew has a decent wage

by international standards and is paid according to a percentage of the gross amount (STECF 2019). Before each sea voyage, the shipowner and crew enter into a contract agreement.

Fishers in Belgium who temporarily stop working fall under a special status (technically unemployed) and receive unemployment benefits (STECF 2022). Workers in fishing obtain their recognition after having sailed for 100 days under the Belgian flag on board a fishing vessel. Once a fisher is recognised, if the percentage wage is lower than the minimum wages, the shipowner must pay up to the level of this minimum wage. Fishers receive among other benefits a supplementary pension, a subsistence allowance and a higher unemployment compensation.

The Sea Fishermen Fund pays the recognised fisherman a supplementary pension premium per social security day. The supplementary pension is financed by an annual gross contribution of EUR 600 per 200 social security days worked per insurance year of employment as a recognised sea fisherman. This contribution is increased by applicable costs and premium taxes. The subsistence allowance is a premium for recognised fishermen as a supplement to unemployment benefits. In the reference period from 1 April to 31 September, EUR 30 per day are paid for a maximum of 40 days.

Until their 20th birthday, young fishers receive financial support for a maximum of 499 days at sea from the Fund for Ship Youth, which is funded by the Flemish government, the province of West Flanders and the ship owners. Also crew members between 20 and 31 years old who have not yet completed 99 days at sea are eligible for compensation from the fund.

Since 2019, an additional compensation to the sickness benefit exists in case of long-term illness for recognised sea fishermen from 2019. This additional compensation is of EUR 4.55 gross per day (days reimbursed by the health insurance company) on top of the sickness benefit and paid by the Sea Fishermen Fund to recognised sea fishermen from the first day of the ninth week up to and including the last day of the week. A lump sum coverage in the event of a fatal occupational accident or an occupational accident with a permanent disability of more than 66% is also part of the benefits. The amount of the premium is around EUR 31 000, indexed annually.

Known as waiting allowance fishermen aged 55 or older are offered the opportunity to reduce their work hours if they have 5 500 sailing days or equivalent days due to an industrial accident. Sea fishermen also have the option of taking early retirement, if they (1) have reached the age of 62; (2) 5 500 sailing days and/or equivalent days; (3) are entitled to unemployment benefits; (4) have achieved 40 years of professional career as an employee for men and 34 years of professional career as an employee for women, no later than the end of the employment contract. In the case of early retirement fishers are no longer allowed to sail.

Denmark

According to the Danish Maritime Authority, a fisherman must have a written employment agreement when working on a fishing vessel. The employment agreement must contain at least information about rights in respect of: minimum rest period, holiday, holiday allowance or salary during holiday, health and social security coverage and benefits, the protection that covers the employee in the event of illness, personal injury or death in connection with service, and repatriation.

Minimum wages are determined through collective negotiations between employers and employees on board fishing vessels. Together, the Danish Fishermen Producer Organisation and the Danish Pelagic Producer Organisation represent the vessel owners, while the United Federation of Workers in Denmark represents the hired fishers. These two fisheries parties negotiate a collective agreement on minimum wages and pension. The agreement guaranteed fishers a minimum salary per fishing day of EUR 171 and a pension of EUR 34 per day in 2020. The same amount is calculated for wage for working

sick payments. There are no differences between fishery types nor between types of work on board and a price index regulates the minimum salary. However, the position on board and the experience of the hired fishers determines the crew share payments. Typically, the shares lead to a higher salary than the minimum salary. If not, the vessel owner must pay the minimum salary to the hired crew. While these agreements are in place, Danish SSF are characterised by the fact that many vessels are owner-operated, often with very few or no hired crew. Although updated numbers are not available, in 2012, 20% of the active vessels were owner operated (Nielsen *et al.* 2018). In these cases, the collective agreement is only of minor importance.

France

France has a special social security regime whose beneficiaries are sailors and seafarers from commercial fishing, aquaculture and recreational fishers. The regulations defining benefits for these seamen come from the decree of 17 June 1938 on the organisation and unification of the sailor insurance system. The French 'Etablissement national des invalides de la marine' (ENIM) is a public administrative establishment managing currently the special social security regime. The Establishment signs objectives and management agreements with the State. Fishers employed aboard vessels registered with the French Flag Register who have their residence in France mandatorily come under the special system for seamen of ENIM, irrespective of their nationality. Employer contributions and employee dues from seamen are based on the flat-rate salaries set out annually on 1 April by inter-ministerial order. These flat-rate salaries correspond to the categories into which the seamen are classified, taking account of their functions on board the vessels.

Benefits in kind are the same as for the general sickness insurance system (Article L. 321-1 of the Social Security Code). Cash benefits include:

- Maritime labour accident insurance (Article 9);
- Insurance for sickness occurring whilst sailing (Article 22);
- Family insurance (Articles 36 to 38 A);
- Pregnancy and maternity insurance (Articles 39 to 43);
- Paternity insurance (Article 43);
- Funeral costs (Articles 11 and 24);
- Food allowances (Article 68);
- Allowance for death (Article 49-2);
- Insurance against loss of effects and equipment (law of 22 June 1949);
- Transfer costs;
- Spa treatments; and
- Professional training/re-training (Article L. 5213-3 of the Labour Code // Circular no. 02 of 6 August 2008).

Similarly, pensions include:

- Accident invalidity pensions (Article 16);
- Sickness invalidity pensions (Article 48);
- Professional sickness invalidity pensions (Article 49); and

- Old-age insurance for seamen: the pension insurance system for seamen distinguishes between three types of pension (Articles L.5552-1 et seq of the Transportation Code): (1) the length of service pension when the seaman completes at least 25 years of valid service for a pension; (2) the length of service pension when the seaman completes at least 15 years of valid service for a pension, (3) the special pension when the seaman completes a period of service valid for a pension with that period being at least equal to 3 months and less than 15 years.

The operating rules for the retirement scheme for workers in the maritime-fishing sector differ from those of the general regime, mainly, in three points:

- as a rule, the minimum age for access to retirement is lower than that established in the general regime;
- there are three different types of retirement which cannot be combined: age retirement, proportional retirement and special reform; and
- the amount of the retirement value is calculated based on the fixed salary of the last three years of service or for the best 5 years.

The pension amount is thus determined in accordance with a percentage of the reference flat-rate salary. Working while receiving a pension is possible under certain conditions and after the age of 55 years⁶⁹.

Under the terms of the special regime, the so-called 'caisse générale de prévoyance' will, as a rule, assume any medical, surgical and pharmaceutical expenses arising from occupational accidents, funeral costs in case of death resulting from an accident at work. During the period of incapacity to work, the person concerned is awarded a daily allowance, unless it is proven that the accident was in fact attributable to the injured party. If the accident at work results in a permanent disability of at least 10% for the worker compensation is also awarded, calculated based on the worker's annual salary. In the event of death due to an accident at work, compensation to the successors is awarded, equivalent to 25% of the fixed annual salary of the category for which the worker was hired for.

Since 1st January 2018 all seafarers with residence in France have been obliged to affiliate either to ENIM, or to the social security programme of a State with a reciprocal agreement with France, or to a private insurance scheme 'at least equivalent' to ENIM.

Germany

All fishers must register themselves to the mandatory social security. The German Pension Insurance is managed by the Knappschaft-Bahn-See. The Seaman's Fund (Seemannskasse) grants seafarers who retire from seafaring employment or self-employment, bridging allowances and a benefit after reaching the standard retirement age. It thus takes into account the special burdens in the marine sector. The professional seafarer is given the opportunity to leave his profession before reaching the standard retirement age by guaranteeing a pension that closes the gap between the time when he or she gives up seafaring and the start of the old-age pension. The bridging allowance is paid at the age of 56 in the amount of a statutory standard old-age pension without any additional period. The basis of the payment is the status of the insurance account in the statutory pension insurance at the time of the application for the allowance.

The unemployment insurance compensation for fishers includes unemployment benefit, short-time work allowance and payments in case of bankruptcy. An employee is entitled to unemployment

⁶⁹ see <https://www.senat.fr/rap/r12-707/r12-7070.html>

benefits if he/she is unemployed, registered with the employment agency and fulfils the qualifying period. The qualifying period is fulfilled if the person has been employed with compulsory insurance for twelve months out of two years. How long a person is entitled to unemployment benefit depends on the number of compulsory insurance relationships completed in the last five years (e.g. employment, receipt of sick pay, etc.) and the age of the unemployed person. The economic short-time working allowance is granted if the regular weekly working hours in companies or company departments are temporarily reduced due to economic reasons or an unavoidable event.

Statutory health insurance is mandatory for all employees whose income (annual salary) is below the compulsory insurance limit. Seafarers - just like other employees - can freely choose their health and nursing care insurance. Previously, seafarers were compulsorily insured in the maritime health insurance fund and the maritime nursing insurance fund.

For accidents insurance, the trade association for transport industry, postal logistics, telecommunications (BG Verkehr) is responsible for seafarers. The German statutory accident insurance also ensures practical occupational safety and accident prevention.

Greece

The law 3874/2010 of the Register of Farmers and Agricultural Undertakings, which replaced law 2332/1995 and Article 1 of law 2520/1997, states that an adult employed in fishery (sea fishery, inland fishery, sponge fishing, shell fishing and aquaculture) is considered as a professional farmer provided that:

- such person is the owner, joint owner, renter or participates in any way whatsoever in the exploitation of a commercial fishing vessel, except for deep-sea fishing vessels, or engages in aquaculture as the owner or tenant of an aquaculture holding for at least 30% of his/her total annual work time and earns from such employment at least 35% of his/her annual income and is the owner of a personal commercial fishing permit;
- as owner, joint owner or renter of a commercial fishing vessel refuels his/her vessel with bunker fuel at least once every three years; and
- is insured with the Agricultural Insurance Organisation (Ellinikes Georgikes Asfaliseis- ELGA) or the Merchant Seaman's Pension Fund (Naftiko Apomachiko Tameio or NAT), provided that he/she has been employed in commercial fishing vessels at least for a five-year period, or the Social Security Institute (Ídryma Koinonikón Asfalíseon or IKA), provided that he/she has been employed in commercial fishing vessels since 2003 at least.

Fishermen, who like farmers earn at least 50% of their income from their employment, are obliged to be insured by the Agricultural Insurance Organisation (ELGA).

Law 1140/81 allows only fishermen on large fishing vessels to be insured with the Greek Merchant Seamen's Pension Fund (NAT). Only those workers who have over 3 000 days of insurance coverage for work in fishery remain insured with the Social Insurance Institute (or IKA) (Article 7 of law 3232/04, as replaced by Article 52 of law 3518/06).

Italy

According to Lourenco (2021), there are two social security schemes for Italian fishermen:

- social security regime for small-scale fishermen under 'Legge 13 marzo 1958, n.º 250⁷⁰ dei previdenze a favore dei pescatori della piccola pesca marittima e delle acque interne' that applies exclusively on the context of fishing activity, whether working on its own or under an association; and
- under the maritime social security scheme, under the terms of 'Legge 26 luglio 1984, no.413⁷¹ de riordinamento pensionistico dei lavoratori marittimi', applicable to current members of the Pension Fund for Dependent Workers (Fondo Pensioni Lavoratori Dipendenti or FPLD) of the National Institute for Social Security (Istituto Nazionale Previdenza Sociale or INPS), that provides access to all the benefits of the General Compulsory Social Security System (Assicurazione Generale Obbligatoria or AGO), but retaining some specific benefits linked to the specific activities of fishermen. This law deals also with the legal context applicable to early retirement. Seafarers benefit from set of medical support through the Health Assistance for Sailors (Assistenza sanitaria al personale navigante or SASN), and have access to sickness and working accidents insurance within the scope of the National Institute for Accidents Insurance (Istituto Nazionale per L'Assicurazione contro gli infortuni sul labor or INAIL).

Portugal

Registered fishers who carry out fishing activities have been covered by the general social security regime from 1970 onwards. Before this date, fishers' social security was administered by the Central Board of Fishermen's Houses (Junta Central das Casas dos Pescadores).

The social security in Portugal is mandatory for local and coastal fishing workers or catchers of marine species and on foot fishermen if they are:

- registered as a maritime worker who carry out professional activity in local and coastal fishing, under the authority of a fishing vessel owner or his legal representative;
- owners of local fishing vessels who are part of the crew and carry out effective activities on these vessels;
- collectors of marine species;
- on foot (dismounted) fishermen; and
- workers and owners of registered seafarers who carry out professional activities on board coastal fishing vessels, which prior to June 1999 were covered by the regime auction retention of a percentage of the gross value of the fish landed.

Fishers under these categories must declare to the competent Social Security institution: a) the beginning of professional activity, b) a connection to a new employer, c) the duration of the employment contract. This social security covers: illness, parenting, unemployment, occupational diseases, disability, old age pensions and death. Since 1986, registered fishermen beneficiaries of the Pension Fund and Family Allowance for Fishing Professionals, have access to old-age pensions from the age of 55, as long as they have fulfilled the guarantee period established for the general social security regime and have worked as fishermen at least for 30 years. For the purposes of calculation of

⁷⁰ <https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1958-04-05&atto.codiceRedazionale=058U0250&atto.articolo.numero=0&atto.articolo.sottoArticolo=1&atto.articolo.sottoArticolo1=10&qld=cc011795-41f1-47dd-918d-6d686669a3b8&tabID=0.1632904134350499&title=lbl.dettaglioAtto>

⁷¹ <https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1984-08-02&atto.codiceRedazionale=084U0413&atto.articolo.numero=0&atto.articolo.sottoArticolo=1&atto.articolo.sottoArticolo1=0&qld=&tabID=0.8438428675554033&title=lbl.dettaglioAtto>

pensions, Regulatory Decree No. 2/2021 'establishes a special regime for counting length of service for access to retirement of fishing professionals'.

In addition to standard social security schemes, Decree-Law No. 61/2014, protects Portuguese fishers who for reasons beyond their control -circumstantial, temporary, or unforeseeable - become partially or totally unable to work, thus losing their income, and provides salary to them through the Salary Compensation Fund for Fishing Professionals. This Fund is financed with: a) 60% of the proceeds from fines imposed for violations of the general fishing regulations; b) proceeds from fines imposed for violations of this decree; c) proceeds from annual licensing fees for fishing and the use of fishing gear; d) 50% of the proceeds from licensing fees for recreational fishing; e) donations, inheritances, or legacies; f) transfers from the State budget; g) balances carried over from previous fiscal years. To benefit from this fund under this law the following conditions apply:

- Adverse conditions refer to situations that result in a lack of safety at the coast or at sea, as certified by the competent authority, including the restriction or closure of the coast, or the prohibition of fishing vessels operating from ports, small ports, slipways, and beaches for more than three consecutive days or for seven days on an intermittent basis within a 30-day period; and
- The daily value of salary compensation is equal to 1/30 of the minimum monthly wage guaranteed to workers. This payment of salary compensation is limited to the budgetary availability of the Fund and to a period not exceeding 60 days per year. The payment is only due from the fourth day after the date of immobilisation of the vessels or from the date of the decision to prohibit fishing made by the competent authority. The period for payment of salary compensation may be extended to 90 days by order of the government member responsible for the maritime area, upon a proposal from the management board.

In agreement with the Legal Regime for the Promotion of Safety and Health at Work, approved by Law no. 102/2009, 'the health promotion and surveillance can be ensured through National Service units of Health, in accordance with specific legislation approved by the ministry responsible for the area of health', including fishing workers on vessels with length of less than 15 m whose owner does not operate more than two fishing vessels up to this length. It is the shipowner's responsibility to ensure the treatment, paying the respective charges, of the seafarer who, while traveling, suffers a natural illness or accident other than at work and requires treatment on land outside the national territory, including essential dental care, as provided for in paragraph 1 of article 21 of Law no. 146/2015, of 9 September. Seafarers who are not beneficiaries of the National Health Service have access, under identical conditions to beneficiaries for the purposes of health protection and medical care, including essential dental care, with the shipowner being responsible for ensuring payment of health care provided in the event of a natural illness or accident not related to work.

In the event of illness or accident of a seafarer on board that makes it impossible for him to carry out work, the shipowner must pay:

- the remuneration or the difference between this and the sickness benefit or compensation for temporary incapacity for work resulting from an accident at work or professional illness professional, during the period in which the seafarer is on board or disembarked waiting for repatriation; and
- after the aforementioned period and if the seafarer is not entitled to the subsidy or compensation foreseen, an amount equivalent to the first or, if this is not determinable, corresponding half of the remuneration, for 16 weeks from the onset of the illness or accident.

Spain

In Spain social protection of fishers is regulated under a special regime. The law *Regimen Especial de los Trabajadores del Mar* (Special Regime for sea workers) regulates the social security for fishers and the system is administered by the Social Marine Institute (Instituto Social de la Marina or ISM).

For the individuals covered by the scope of the Special System the following benefits are granted:

- medical assistance in cases of childbirth and child care, common or occupational illness, and accidents, whether work-related or not, both within the national territory and on board and/or abroad;
- professional recovery, which is applicable in any of the cases mentioned in the previous paragraph;
- economic benefits for temporary disability;
- economic benefits for childbirth and child care;
- economic benefits for the shared responsibility of infant care;
- economic benefits for risk during pregnancy;
- economic benefits for risk during natural lactation;
- economic benefits for the care of children affected by cancer or other serious illnesses;
- economic benefits for permanent disability;
- economic benefits for retirement;
- economic benefits for death and survival;
- family benefits;
- unemployment benefits at both the contributory and assistance levels;
- benefits for cessation of activity;
- assistance benefits and social services for contingencies and special situations arising from work at sea; and
- social service benefits that may be established for the training and rehabilitation of persons with disabilities and assistance to the elderly, as well as in other areas where deemed appropriate.

With regard to the protection against illness of workers in the maritime-fishing sector, the Real Decree 618/2020, of June 30, 2013, for improving working conditions in the fishing sector, establishes that workers who are on board a fishing boat have the right to receive medical treatment on land, as well as to disembark, at the earliest quickly as possible in the event of serious injury or illness. When the worker in the maritime-fishing sector is covered by a social security system that does not include protection in the event of work-related illness, injury or death, nor the corresponding compensation for illness or injury caused by a traffic accident work, the responsibility will be assumed by the ship's master. By Law 47/2015, of 2017, fishermen are entitled to the provision economic benefit due to temporary incapacity, permanent incapacity and upon retirement. When permanent disability results from a work accident or occupational illness, workers in the maritime-fishing sector will be owed economic benefits for permanent disability regardless of contributions made to the pension system. Fishers who are covered by the special regime enshrined in Ley 47/2015 can access retirement, without penalty, before reaching the expected age of 65 years. This happens through the application of age reduction coefficients to workers who work professional activities of an exceptionally dangerous nature, with high mortality rates or accidents, as well as those that imply a prolonged family separation. the result of applying the reduction coefficients cannot be greater than 10 years.

As regards social protection contributions, there are three groups of fishers depending on the gross register tonnage (GRT) of the ships on which they provide their services:

- Group I includes employed workers remunerated with a salary and workers remunerated through a share system that provide their service on ships with a GRT of more than 150, in other words, all Merchant Navy workers and the big fishing companies.
- Group II includes employed workers remunerated through a share system that provide their services on fishing boats of more than 10 GRT and up to 50 GRT (Group II-A) and on ships of more than 50 GRT and up to 150 GRT (Group II-B).
- Group III covers employed workers remunerated through a share system that provide their service on boats of up to 10 GRT and self-employed workers.

Correction coefficients for contributions are applied for Group II and III base for common contingencies and unemployment, so the contribution to pay is lower. These correction coefficients are 2/3 for Group II A, 1/2 for Group II B and 1/3 for Group III. Nevertheless, for the calculation of Social Security benefits the total base will be taken into consideration, without the application of the correction coefficients.

All contribution bases of workers included in Groups II and III are single and are determined annually depending on the province, fishing method and occupational classifications, based on the average values of compensation received in the previous year. However, these single contribution bases may not be less than the minimum bases specified for the various occupational classifications.

Ireland

Social protection in Ireland is regulated under the Social Welfare Consolidation Act of 2005. As an example of the application of the Council Directive (EU) 2017/159, Irish legislation governing fishing vessels applies to both employees and shared-pay fishers, and all contracts of employment need to specify terms relating to paid leave, incapacity for work due to illness, paid sick leave and pensions. With the enactment of eight Statutory Instruments between 2019 and 2023, Ireland has transferred the ILO Convention to national legislation. Relevant to social security is the Statutory Instrument No 333 of 2020. The instrument provides that the master of a fishing vessel must carry on board a crew list which must be communicated ashore to an appropriate person such as the owner, company or family member. It also provides that a fishing vessel owner who engages a person in any capacity under a contract of employment or in any employment relationship on board a fishing vessel must ensure that a Fisherman's Work Agreement is entered into in writing, signed by all relevant parties and retained on board the vessel. Among other information, a work agreement must include the terms of health and social benefits. In the case of shared-pay fishers, a Crew Agreement is needed for vessels with a capacity over 24 tonnes. Furthermore, temporary agency workers must have equal treatment with workers doing similar work who are employed directly by the hirer in respect of payment, working time, rest periods, annual leave and public holidays. Temporary agency workers and the hirer's own workers must also have equal access to facilities such as childcare, canteen or similar amenities, or transport services.

3.3.2. Fishers in non-standard employment relationships (self-employed and unsalaried)

According to STECF 2019, based on 2017 data, about 80 000 EU fishers belong to the SSF. These fishers are in their majority self-employed. The figure of self-employed includes fishers that are legally under unsalaried work arrangements, who are not obliged to pay any social contribution as in the case of all small-scale fishers in Cyprus. For the rest, the social security schemes for self-employed fishers follow the schemes for all self-employed workers in the EU Member States with differences in their unemployment, old-age pensions, sickness and work injuries coverage (Table 15).

Table 15: Entitlement of self-employed workers to social security branches in EU Member States.

Member State	Unemployment	Old-age pensions	Sickness	Work injury
Belgium	no (some coverage via droit passerelle*)	compulsory (special scheme)	compulsory (special scheme)	no (some coverage via droit passerelle)
Bulgaria	no	compulsory	voluntary	no
Croatia	compulsory	compulsory	compulsory	compulsory
Cyprus	no	compulsory	compulsory	no
Denmark	voluntary (also for employees + minimum guaranteed income available to all)	compulsory	compulsory	voluntary
Estonia	no (access to state unemployment allowance)	compulsory	compulsory	no
Finland	compulsory (basic flat benefit) + voluntary (earnings-related)	compulsory**	compulsory	voluntary; compulsory for farmers and athletes
France	no, means-tested contribution-free benefit for those under judicial liquidation (incl. farmers and artists)	compulsory (special scheme for farmers)	compulsory (special scheme for farmers)	no scheme for cash benefits, voluntary for in kind benefits; compulsory scheme for farmers
Germany	voluntary	voluntary	compulsory for farmers	voluntary, compulsory for farmers
Greece	no for farmers	compulsory	compulsory	no
Ireland	compulsory (non-contributory for now)	compulsory	no, except voluntary opt-in for fishermen/women	no
Italy	no	compulsory	no compulsory statutory scheme except for dependent self-employed; partial and fragmented benefits by occupation/sector	compulsory, self-employed fishermen pay special monthly premium based on the conventional

Member State	Unemployment	Old-age pensions	Sickness	Work injury
				daily salary of €27.73 for 2022
Latvia	no	compulsory	compulsory	no
Lithuania	no for liberal professions, athletes/artists, and farmers	compulsory (if income is declared as wages)	compulsory	no
Malta	compulsory	compulsory	compulsory	compulsory
The Netherlands	no (means-tested unemployment assistance available)	compulsory	voluntary	no
Poland	compulsory for self-employed; no scheme for farmers	compulsory	voluntary opt-in for self-employed; compulsory for farmers	compulsory for both self-employed and farmers
Portugal	compulsory for dependent self-employed and managers/directors; no scheme for others	compulsory	compulsory	compulsory
Romania	voluntary (under the same conditions as employees)	compulsory	compulsory	no
Slovenia	compulsory	compulsory	compulsory	compulsory
Spain	compulsory; voluntary opt-in for farmers	compulsory	compulsory; voluntary opt-in for farmers	compulsory; voluntary opt-in for farmers
Sweden	compulsory (basic flat benefit) + voluntary (earnings-related)	compulsory	compulsory	compulsory

Data source: Fondeville *et al.* (2015: Table 12), Avlijaš (2020) and MISSOC.

Note*: This scheme applies to the self-employed (as main activity, helper or assisting spouse): (1) who is forced to suspend at least temporarily or permanently cease their self-employed activity for reasons beyond their control (this concerns six legally prescribed situations of forced interruption: natural disaster, fire, deterioration, allergy, decision of a third economic actor or event having an economic impact on the business, and bankruptcy), or (2) who is in economic difficulty and officially ceases any self-employed activity.

Note**: The minimum insured income of the self-employed is EUR 8 575.45 per year (ind. 2023) (Farmers' Act: EUR 4 288 per year). For employees it is EUR 65.26 per month.

Belgium

The self-employed can also claim social security. The self-employed therefore pay a social contribution. This contribution is a lower percentage than the joint contribution of employers and employees but includes fewer benefits. However, the self-employed may pay extra voluntary contributions which give them additional rights in certain cases. At the beginning, the self-employed pay 'provisional contributions.' The 'Law regulating the maritime employment contract for maritime fishing and improving the social status of fishermen' does not cover self-employed fishers.

Bulgaria

Unpaid labour in the sector consists of 485 people and could be separated into unpaid family workers and fishers who are not paying social insurances and do not have a monthly salary. These fishers are mainly people who are at sea less than 10 days per year (STECF 2019).

Croatia

According to the Croatian Labour Act, fishers on board are provided with beneficiary work experience which enables them to retire earlier, as one year experience on board is counted as 1 year and 3 months of work experience in total. However, this rule does not apply to (vessel and/or family business) owners working on board (STECF 2019).

Defining unpaid labour is particularly important for the segment of small scale coastal artisanal fleet which accounts for 3500 vessels and 5290 fishers. Due to legal restrictions, authorized persons in this category could only be natural persons without legal rights to be involved in first sales and without obligations to pay social security fees. However, reporting on fishing activities is mandatory for this category so as for any other category of commercial fisheries. Since there is no income, salaries or any kind of remuneration in this category, all of the participants are considered as unpaid labour.

In 2017, the majority of the fishers in the SSF were self-employed - 78% were owners (mostly self-employed without employees). Although the majority of the fishers were in the age group of 40-64 years, a significant share (24%) was in the group of over 65, which implies family workers usually involved as unpaid labour and retired fishers in the category of small scale artisanal coastal fishing (STECF 2019).

Cyprus

In Cyprus, self-employed fishermen under the age of 16 are exempt from the compulsory sickness insurance. All of the fishers working in coastal inshore fishery are considered as unpaid labour and thus are not part of any social security programme.

Denmark

All fishers including self-employed are covered by compulsory social security.

Estonia

Employment was estimated at 1 318 jobs, corresponding to 321 FTEs in 2020. The big difference between numbers of total employed and FTE is due to the fact that there are many persons in the sector for whom fishing is not the only source of income. This situation mainly concerns the SSF (STECF 2019).

Finland

Total employment in 2020 was estimated at 1 256 jobs. The majority of the jobs (89%) are in the SSF that perform mainly seasonal fisheries and therefore the employment in that segment is usually only part-time.

France

The French administration does not consider the revenue of one owner working alone on his boat as unpaid labour (STECF 2019) and therefore all fishers including self-employed are covered by a special social security scheme.

Germany

All German fishers including the self-employed are covered by social security. A coastal or small-scale fisher is defined as a fisher working on a vessel with a volume up to 250 cubic metres of capacity. As of January 2023, the German coastal states grant small coastal fishing businesses a subsidy towards the accident levy for maritime accidents. This subsidy is also granted to compulsory coastal fishermen in accident insurance.

Lewin *et al.* (2023) report that all small-scale fishers in Germany are self-employed. Until 2021, German law stipulated that to register as a full-time small-scale fisher, more than 60% of their gross income had to come from fishing. Only full-time fishers could be granted government subsidies for temporary cessation of fishing activity, if they had registered as such for at least one year before submitting the application for subsidies and had earned at least 60% of their gross income from fishing in three years preceding the application. However, due to the current situation of depleted stocks and severe total allowable quota reductions, some fishers lost their full-time status, and the regulation for access to subsidies changed in 2022. Since then, fishers can decide if they want to register as full-time or part-time business regardless of gross income and an annual switch between the two forms is possible (*ibid.*).

Greece

The SSF employs a total of 14 340 engaged crew, thus contributing to 77% of the total national employment of the sector. The majority of the engaged crew is paid in shares described as unpaid labour and are mainly members of the captains' family (STECF 2022). 69% of fishers in Greece are owners of the fishing vessels (STECF 2019).

Ireland

In the Irish fishing fleet, most fishing crew are self-employed, and remuneration is normally on a share basis. Social protection in Ireland is regulated under the Social Welfare Consolidation Act of 2005. The Act has specific provisions for the social protection of self-employed fishers. Unemployment benefits for self-employed share fishers (i.e. the members of the crew of a fishing vessel whose principal means of livelihood is derived from a share in the profits or the gross earnings of the working of the vessel), can be obtained under the modality of 'optional contributor'. The condition for the receipt of unemployment benefit in respect of any day, by a person engaged in share fishing that:

- it is not a day on which he or she is engaged in share fishing and it is a day in respect of which he or she makes reasonable efforts to obtain such work, and
- there was no work on, or in connection with, the fishing vessel of which he or she is a member of the crew available for him or her on that day because:
 - as a consequence of weather conditions, the fishing vessel could not reasonably have put to sea for the purposes of fishing, or
 - the fishing vessel was undergoing repairs or maintenance.

Italy

Over 65% of vessels in Italy fall under the SSF. The prevailing status has been that of a self-employed owner that does not work on the boat (over 58%). In some cases, the owner is not self-employed, but the dynamics vary according to different Italian coastal areas.

Latvia

73% from the total number of employees have an indefinite contract and work under standard employment relationships. Four percent of the fishing workforce are owners of the enterprises who are also involved in fishing.

Lithuania

The largest contribution of owners in fishing operations was observed in small-scale fisheries, where an insignificant part of them was considered unpaid labour (whereas large-scale fleet and long-distance fleet employees were mostly hired crew members). Unpaid labour in the Lithuanian fishing fleet was identified only in small-scale fisheries, where individual enterprises and family business are the most dominant legal status of entities and could have unpaid labour involved in business operations (STECF 2019). In Lithuania, the compulsory unemployment scheme does not cover self-employed workers except if they are fishermen issuing a service receipt.

Malta

68% or 757 out of 1 116 fishers of the workforce involved in the sector is on an unpaid labour basis (STECF 2019).

The Netherlands

In 2017 there were 432 unpaid labour (not self-employed) workers in the Dutch fishing fleet. Most of them are pensioned fishers who still contribute with certain tasks (e.g. driving crew to harbour). Relatively to the total of 1 700 paid employees this is 25% on average. The self-employed are not insured against unemployment and do not receive sickness benefits. Self-employed persons who have become unable to work must insure themselves against the risk of occupational disability.

In the Netherlands, self-employed sea fishers have a mandatory occupational pension scheme.

Poland

No data on self-employed or unpaid fishers is available.

Portugal

Most fishing workers in Portugal are concentrated in the SSF sector (58%), although the LSF also employs a substantial part of the workforce (39%). Only 3% of fishers work on DWF vessels, since this segment comprises only a few vessels (STECF 2019).

Self-employed small-scale fishers (local and coastal fishing workers) are considered a specific group in regard to their contributions to social security. For local fishing workers and vessel owners who are part of the crew and carry out effective professional activity on these vessels, the contribution corresponds to 10% of the value of the fish sold at auction, to be distributed according to the respective parties. For collectors of marine species or on foot fishermen and other individuals authorised for the first sale of fish outside the auctions, the contribution corresponds to 10% of the value of the fish sold according to the respective sales notes.

Romania

No data on self-employed or unpaid fishers is available.

Slovenia

For the Slovenian fisheries sector the typical employment status of the majority is as self-employed owner of the fishing vessels and corresponds to 84% of all fishers in the SSF sector.

Spain

Self-employed fishers are defined by law as those who habitually, personally and directly, outside the scope of management and organisation of another person and for profit, will be included in the Special Social Security Regime for Sea Workers and works in maritime fishing in any of its forms. The compulsory unemployment insurance is voluntary for self-employed Spanish agricultural workers including fishers. Furthermore, self-employed fishers are excluded from the compulsory insurance scheme for work accidents.

In Spain, it is relevant to note that unpaid labour (or self-employment) in the SSF sector amounts to 7 693 persons (STECF 2019).

Sweden

No data on self-employed or unpaid fishers is available.

3.4. Analysis of the state of play of EU fishers' social security

KEY FINDINGS

- On social security for fishers, Spain and France lead with **special regulations and organisations** exclusively in charge, while in Cyprus fishers (98% small-scale fishers) are not considered paid workers and **lack social security coverage**.
- The **EU lacks data collection on the social protection of fishers**. Existing EU social data collection on fisheries in general needs modification and improvement.
- Most EU **small-scale fishers are partially or not covered** at all by social security schemes.
- Among **best practises** that could contribute to an increment in the attractiveness of the fishing sector to younger generations this study identified: guarantees for minimum monthly wages, early retirement and legal recognition of fishing as an arduous occupation, social security coverage during training or apprenticeships periods and possibilities to continue fishing at least during the first years after retirement (specially for small-scale fishers).

Social security for seamen has a long history in Europe and specific arrangements for the security of seamen were set out even before the establishment of overall social security around the middle of the last century. Setting the origins of the French institution managing the social security of seamen, a subsistence ordinance for women and families was signed in 1675 and a sailors' pension was established in 1689 (ENIM webpage). Over time, social security schemes for fishers have developed into the current set of highly diverse national systems, with differences in the organizations that oversee their management, the rules governing the schemes and the extent of security branches that are covered. The diversity can be related to the number of fishers, and in particular the number of small-scale fishers in each Member State. Spain and France lead with special regulations and organisations exclusively in charge of implementing the social security of fishers, while Cyprus fishers (of which 98% are small-scale fishers) are not considered paid workers and lack social security protection.

Challenges in the analysis of EU fishers' social security

The EU lacks data collection on the social protection of fishers. An analysis of the state of play is hindered by a general lack of social data about the EU fishing sector. For example, a focus on the small-scale fisheries sector is hindered by the absence of reliable statistics on the population of fishers that are involved in this type of fishing. The fact that these fishers still work mainly in geographically remote or isolated places and the majority of them do not work on a standard employment relationships and fish on a seasonal or temporal basis, has been reported to pose practical difficulties in the collection of these data. However, the system of data collection also needs to be improved. For EU data collection for example, the small-scale fisheries fleet is defined as comprising vessels less than 12 metres in length using non-towed gears. This definition is known to exclude all vessels under 12 metres that use dredges or other towed fishing gears, which can be distorting the size of the population of fishers involved in small-scale fishing in some Member States. In Spain for example, it is estimated that 1500 small fishing vessels cannot be classified as belonging to the small-scale fishing fleet due to this error in definition (Jose Pascual *pers comm.*)

Differences in the way that Member States define and collect fisheries data can be also a source of inaccuracy for assembling data at EU level. In Portugal for example, the different fishing sectors established by national law are defined as: (i) Local Fishing: small vessels up to 9 metres in length, (ii) Coastal Fishing: vessels with length greater than 9 metres and equal to or less than 35 metres, and (iii) Large-scale Fishing: vessels with a tonnage capacity exceeding 100 GT and a minimum autonomy of 15 days that operate beyond 12 nautical miles. Portugal's information on the number of fishers per fishing fleet follows these definitions, turning problematic the transposition of this data to the EU Data Collection system.

In addition to the categories of full-time employment and partial employment, data on the status of fishers' employment started to be collected systematically in the EU in 2017. For this data collection, EU MS were asked to report on employment status using the categories of vessel owner, employee, and unpaid worker. As explained in the STECF report, the need to harmonise and define more clearly some social categories gathered by Member States, such as unpaid labour, is needed in the short-term. This category currently includes cases of vessel owners fishing on their own, but also cases of other persons in the family contributing with work to the productive unit, usually women, young persons, or elders. The report emphasises the need to clearly differentiate between the two cases which have generated a conceptual issue and consequently the delivery of unreliable statistics (STECF 2022).

A comprehensive analysis of any social security system for fishers in the EU is further complicated by the fact that what is legally regarded as a worker, a fisherman and a self-employee varies widely among Member States. Furthermore, as it is often the case in the fisheries sector, a fishers paid under a shared remuneration system are confused with self-employed fishers (see Guelker 2023).

Social security of EU fishers

For the purposes of social security analysis, EU fishers' employment is divided between workers in standard employment relationships (SER) and workers on non-standard or precarious contracts who are self-employed, unsalaried, unpaid or work part-time.

Fishers under standard employment relationships

Fishers under SER prevailed in the large-scale fisheries sector. Social security of fishers in SER, employed by fishing companies and working in large vessels, encompasses systems managed by dedicated institutions applying standard benefits which include:

- sickness and maternity (equivalent paternity) benefits;
- invalidity benefits;
- old-age benefits;
- survivors' benefits;
- benefits in respect of accidents at work and occupational diseases; and
- unemployment benefits.

Typical social security schemes for fishers under SER can be observed in Denmark, Belgium or Ireland, where fishers in the large-scale or distant water fleet work under written contracts or employment agreements. One of the advantages of this system is that fishers can be guaranteed a minimum monthly salary independent of the shared remuneration wages which they usually get as payment and avoiding the reliance on large landings to attain a good salary. Denmark and Belgium have implemented this system of minimum wages for fishers working under SER. To stimulate recruitment and generational renewal, and to increase the attractiveness of the fishing occupation this system

could be considered given the poor health of many fishing stocks in the EU. Another advantage under this scheme is the extension of some social security benefits such as unemployment and sickness payments to trainees or youngsters who are starting in the profession. In a few cases, fishers are considered as workers of an arduous and hazardous occupation entitled to early retirement, which can also contribute to increment the attractiveness of the fishing profession.

Cessation due to the impacts of climate change and increasingly frequent extreme weather events has started to change some rules regarding the protection of fishers. By Decree-Law No. 61/2014, Portugal protects fishers who for reasons beyond their control - circumstantial, temporary, or unforeseeable - become partially or totally unable to work, thus losing their income, and provides salary to them through the Salary Compensation Fund for Fishing Professionals. This law mentions the increment of adverse weather conditions over the last years as one reason for amending the previous regulations. The law amends the access requirements to the Compensation Fund, stipulating that the existence of 'adverse conditions' resulting in a lack of safety at sea is a basis for awarding salary compensation, instead of requiring the occurrence of a 'natural and unforeseeable catastrophe.' Additionally, it is established that the prohibition of leaving at sea for fishing vessels operating from ports, small ports, slipways, and beaches may justify the provision of financial support. Under this law, the relevant period of work stoppage is reduced from five consecutive days in the past to three consecutive days, and from ten days at intervals to seven days at intervals in a period of one month. The possibility of increasing the maximum period for granting salary compensation from 60 days to 90 days was also introduced by this law.

Fishers under non-standard employment relationships (small-scale fishers)

The majority of small-scale fishers fall into the categories of self-employed, part-time, unsalaried or unpaid worker. Standard employment relationships are on the decline as the world of work – including fishing - is being transformed in the EU. This raises questions about the protection of workers on non-standard or precarious contracts. The current EU labour law instruments do not adequately address this situation, which has an impact on the social security of fishers in the small-scale fishing sector.

The self-regulating system encompassing customary rules used to regulate and coordinate the work of small-scale fishers at the local level in the past, has transferred these regulatory powers to national centralised fisheries management authorities since the second half of the last century. In the best of cases, co-management systems have been established to balance the involvement of small-scale fishers in the regulation and decision-making of fisheries management. To some extent, the relation between national agencies and fishers could be comparable to an 'employment relationship' in the legal sense of the term. In this relationship, the national management agency has the authority to determine how fishers do their job (for example by regulating the number of days that fishers are allowed to work, as in the Mediterranean Sea), which gears to use, and how much to catch according to quotas. A similar case applies in relation to the commercialisation of fishers' products. Many fishers are limited by management regulations to sell their landings through certain channels or markets (the case of the 'lonjas' in Spain is one example). In those cases, fishers are limited to work with one single 'client'. Since a self-employee can be defined as a person in charge of his/her own business and in the position to decide when and how to work without following instructions, the presence of both an authority to determine how the job assignment is done and a single client, raises questions about the self-employment nature of the small-scale fisher's work. Fishers in that sense could be in danger of unintentional fall into the grey area of being subjected to false or bogus self-employment. Moreover, as stated in recent EU legislation such as Directive (EU) 2019/1158 on work-life balance for parents and carers, 'the determination of the existence of an employment relationship should be guided by the facts relating to the actual performance of the work and not by the parties' description of the

relationship.' The role of the Court of Justice of the European Union to determine the status of a worker is here emphasised and means that recent labour directives could cover fishers even if they are not considered self-employed workers by national labour law of the Member States (Szpejna and Boudalaqui-Buresi 2020).

Self-employees in the EU – including in the small-scale fishing sector - remain uncovered for some risks including unemployment, sickness cash benefits and occupational accidents, although voluntary options have been introduced in recent years. This state of play of social security schemes for small-scale fishers in the EU can be correlated to the lack of collective bargaining possibilities of this sector. A study carried out by Eurofound reported that in 2019, fishing sector related trade unions were present in only 11 Member States (Eurofound, 2020). As the reports explain, the problem is exacerbated in the small-scale fisheries sector. In this sector, the high prevalence of family firms, often run by self-employed workers with the additional support of family members, hinders the establishment and work of unions. Trade unions in the EU have proven though to be active in the fishing sector where larger fishing vessels are operating (like in distant water fishing) or in the countries where sea fishing is more significant. Business associations are accordingly the common figure in the small-scale fishing sector where trade unions are missing. Fishing guilds such as the French 'Prud'homies' or the Spanish 'Cofradías' have played important roles working as local unions. However, in the rest of the countries, these conditions reduce the scope for collective bargaining as a means of regulating employment and social security implementation.

Member States have been using funds from the European Maritime, Fisheries and Aquaculture Fund (EMFAF) to assist fishermen during cessation periods established to achieve the sustainable use and conservation of marine resources. In these cases, the allocation from these funds among fishers is decided based on the historical landings records of previous years which sets unfavourable conditions for small-scale fishers with low catches in comparison with large vessels operators. Moreover, these larger vessels have the capacity to migrate to other fishing grounds during periods of cessation, which is not the case for many small-scale fishers who work locally.

Academic literature has reported that the motivations for fishing in the small-scale fisheries sector are not exclusively economic or directed to maximise profits (see for example Arias Schreiber 2022). Many small-scale fishers in the EU and elsewhere, consider fishing a 'way of life' rather than a profession. The relative high number of retired fishers who continue fishing - usually as unpaid work - is evidence of their non-profit motivations. The fact that it is important for these fishers to continue working even without a salary should have implications in the arrangement of social security schemes for the sector. A system that allows retired fishermen to continue working in fishing for a reduced number of hours as the one introduced in Belgium fits well into the small-scale fisher's case.

According to recent literature, social protection systems can be redesigned to enable and incentivise self-employed small-scale fishers to participate. For example, FAO (2019) reported that a registration to a social fund is a precondition for obtaining fishing licences in some countries around the Mediterranean Sea. This report describes mechanisms for increasing social security participation of fishers such as compulsory registration and fixed or reduced contributions supported by state subsidies. Additionally, a social protection initiative called 'innovative contribution modality' is analysed in the report. This innovative system was successfully implemented in low-income countries of the Mediterranean Sea and consists of income-related contributions for social security and health insurance being automatically deducted at the point of sale based on a fixed percentage of the catch. These contributions are then transferred directly to the fishers account with the social fund. The system encourages participation by removing the need for fishers to actively make payments or provide estimates of monthly incomes which can be problematic given their income fluctuations (FAO 2019).

3.4.1. Best practices

This study has identified a series of best practices that could be replicated with a view to improving the social security schemes for fishers in the EU:

- The Spanish system integrates social security of fishers under standard employment relationships and self-employees in a **single specific legislation for workers in the fishing sector**. By regulating these two types of employment status in a single piece of legislation, the gaps in the coverage of certain social security branches between workers in standard working relationships and the self-employed are minimised. Having one regulation for the fisheries sector, has also the advantage to adapt the characteristics of the social security system to the sector's particular needs. This model is also relevant for fishers who belong to a 'in between' self-employment regime and can be classified as economic dependent self-employed.
- Social security schemes that provide fishers with a **minimum monthly wage** independent of their shared remuneration systems can also play an important role to minimise the economic risks of fishers. This modality can be also important to allow fishers to benefit from a minimum living standard and simplify their protection during short unemployment periods. This type of protection for fishers was observed for example in Belgium and Ireland.
- The recognition **of fishing as an arduous and hazardous occupation** can also be identified as a best practice. Based on this recognition, social security schemes for fishers provide not only for early retirement possibilities (see for example the case of Germany) but also for special allowances in the case of accidents at sea. Fishing worldwide is still considered one of the most dangerous occupations and the number of fatalities in the fishing sector remains high in comparison to other economic sectors.
- The coverage of social security during the **periods of training of newcomers** interested in becoming fishers, as observed in the case of Belgium could also be regarded as an important practice to incentivise and incorporate younger generations in the fishing sector.
- The possibility to continue **working as a fisher after retirement** is also one relevant practice that is important to small-scale fishers who consider fishing a 'way of life' rather than an occupation. A large number of fishers in the small-scale fisheries continue fishing after retirement and 'bridging periods' could contribute to reduce this kind of unpaid work in fishing. This benefit was reported in the system in Belgium.
- Finally, social security for fishers will need to be extended, to cover **adaptation to climate change** and increased occurrence of extreme climatic events. The Portuguese legislation of 2014 is an example on how social security can ensure the safety of fisher's operations and avoid economic losses due to climate change. However, further support to deal with the extra burden of financing social security against temporary cessation due to climate change needs to be analysed. Here, the funds from EMFAF have an important role to play and will continue to be used for financing these types of risks.

4. CONCLUSIONS AND RECOMMENDATIONS

4.1. Conclusions

The analysis of the mutual recognition of fishers' certificates and social security coverage reflects the need to reinforce the social pillar of the CFP and the implementation of existing provisions by Member States. This study shows that the **recognition of professional qualifications of fishers** wishing to exercise their profession in another Member State, is currently governed by Directive 2005/36/EC known as the 'Professional Qualifications Directive'. The recognition of professional qualifications in the fishing sector is therefore currently governed by a directive which is non-specific to the fishing industry. The system is based on a one-directional recognition of qualifications. The process is initiated by the applicants who received their qualifications in their home Member State, and their applications are evaluated by the competent authority in the host Member State. Based on the data available in the EU Regulated Professions Database, fishing is currently a regulated profession in 10 Member States, with a total of 46 regulated professions identified under the term 'fisherman'. This study has identified that these professions differ considerably in scope in terms of required competencies and training, and fields of application, which may significantly hamper mutual recognition of certificates and fishers' mobility across the EU. An EU standard for training of fishers rooted in the STCW-F Convention would therefore improve the level playing field for mutual recognition of fishers' certificates. Such a standard is expected to further promote fisher mobility and contribute to the overall attractiveness of the fishing sector. It has also been argued that it would reduce the administrative costs and burdens associated with the current system of recognition especially in countries with large fishing fleets. Furthermore, an EU-wide standard could be integrated in the current legislative framework through specific legislation, as is the case for the training of EU sailors and seafarers.

Given that under Directive 2005/36/EC, mobility is subject to recognition of the training and certification by the competent authority of the host country, the analysis of the decisions on recognition by host Member States showed that between 1997 and 2022, 1740 decisions for fishers' mobility were processed and 1427 attained positive decisions. The profession categories that were most often positively assessed were seaman, skipper, and engineer. These numbers can be used as a proxy reflecting the mobility needs and functioning of the EU recognition system in place. However certain mobility needs may not be reflected in these data, for instance, when it is expected *a priori* that the application will be negatively assessed based on the home country qualification, the regulated profession, or a combination of both. Similarly, most positive automatic decisions were made by the competent authorities in Spain and Portugal (together accounting for 92% of the decisions), of which an overwhelming majority took place after the accession of these countries to STCW-F.

Furthermore, study on the employment of non-local labour in the fisheries sector (European Commission 2016) estimated that in 2013 around 6% of EU fishers were non-local workers while in 2017 (86%) were fishers from their own countries, followed by non-EU/EEA nations (8%), unknown (3%), other EU countries (3%), and EEA (0.1%) (STECF 2019). Furthermore, differences between Member States are clear with 27% of people employed in the Irish fleet being non-Irish nationals and 36% of people employed in the Belgian fleet were non-Belgian nationals. In contrast, 94% of the Italian workers were Italian; 99% of the Portuguese workers were nationals and all the people employed in the Bulgarian fleet were Bulgarian nationals (*ibid*). An assessment of the recognition procedures for certifications issued by non-EU countries was beyond the scope of this study. Yet, this is a highly relevant aspect of EU fisheries governance, given the high reliance on non-EU crew in certain fisheries. Ackermann et al. (2018) observe stark differences between EU Member States in the functions non-EU crew exercise on board (e.g., by law only in unskilled positions in Italy), and in the kind of (re)training

they receive in the host Member State. Of the 17 training centres studied in the period 2016-2017, the authors found that only two institutes in France provided retraining for domestic qualifications obtained by Senegalese fishers (all the rest was first-time training). The implementation of an EU legislation act with standards for fisher certification rooted in STCW-F is expected to make the recognition procedure easier for non-EU fishers coming from STCW-F compliant countries, and would only contribute to further improving safety at sea.

The social partners of the SSDC-F have repeatedly highlighted the importance of transposing the STCW's equivalent for fisheries (STCW-F) into Union law, since ratification rates of this convention are low (only 10 EU Member States have ratified it since 2012). While the European Commission is also committed to improve the safety and working conditions of fishers at sea, it remains somewhat ambiguous on how it aims to achieve this. According to representatives of DG MARE, the Commission is working simultaneously on two parallel pathways. The first pathway is to encourage all Member States to ratify the STCW-F Convention. However, the Commission's efforts to increase ratification rates have had a limited effect to date. The second pathway includes the possibility of transposing the STCW-F Convention into an EU Directive.

Regarding improvements of fishers' safety at sea, this study has established those representatives of social partners from SSDC-F, the European Commission (DG MARE) and key informants from the sector agree on the following:

- standard fishers training and certificates are needed to ensure a level playing field for improving safety and working conditions on board as well as the overall attractiveness of the EU fishing sector;
- standard fishers training and certificates would benefit the free movement of workers within the EU; and
- there is a sense of urgency in relation to these standards given the high rate of fatal accidents of fishers at sea (especially compared to the seafaring sector).

Regarding **social security**, the schemes dedicated to EU fishers have developed into a set of highly diverse national systems with differences in the organizations that oversee their management, the rules governing the schemes and the extent of security branches that are covered. The diversity can be related to the number of fishers, especially the number of small-scale fishers in each Member State. The governance of the schemes varies widely between special regulations and organisations exclusively in charge of implementing the social security of seamen (like in Spain and France), to small-scale fishers not being considered paid workers and lacking social security protection (like in Cyprus).

Social security coverage in the fishing sector depends on the type of fisher's employment relationship and the Member State where the profession is exercised. Around 125 000 fishers are fully or partially employed in the EU, most of them are employed in Spain, Italy and Greece while large fisheries workforces also exist in Portugal, France and Croatia. For social security analysis, employment in the EU fisheries sector can be divided in two segments independently from the remuneration system (fixed wage or shared remuneration system): a) fishers working under standard employment relationships (SER), and b) fishers working under non-standard relationships or self-employed, including fishers under legal unpaid work, part-time work and in a system of shared remuneration. The number of informal fishers working without a fishing license in the small-scale sector is unknown as it is the number of unpaid – often women or family members- workers in supplementary fishing activities such as direct selling of landings, accounting work, mending fishing gears and bating.

Fishers under SERs are almost exclusively workers in large-scale fishing which involves 24% of EU vessels and 45% of fishers in the EU. Distant water fishing involves a very small fraction of total vessels (around 0.4%) and some 4% of crew, with practically all of them working under SER. All these fishers work under formal working contracts with a fishing company and are paid monthly salaries or shared remunerations. Almost 80% of these fishers are full-time employees and their social security schemes – with a few exceptions in some Member States – follow the national standard schemes for workers. This study identified 8 Member States where social security for fishers has special laws or regimes and the services are provided by institutions especially in charge of the social protection of workers at sea. These countries are Belgium, France, Portugal, Germany, Greece, Spain, Ireland and Denmark.

In the small-scale fisheries sector, the status of self-employment, part-time, unsalaried and unpaid workers are prevalent (i.e. non-standard relationships). The largest share of EU fishers (almost 80 000 fishers recorded in 2017) work in the small-scale coastal fishing sector. According to STECF 2019, these fishers are in their majority self-employed fishers. The figure of self-employed includes here fishers that are legally under unpaid work arrangements, who are not obliged to pay any social contribution as in the case of all small-scale fishers in Cyprus and are not covered by any social security scheme. For the rest, self-employed fishers' social security schemes follow the schemes for all self-employed workers in the EU Member States. As self-employees in the EU, small-scale fishers remain uncovered for some risks including unemployment, sickness and occupational accidents, although voluntary options have been introduced in recent years in some Member States.

4.2. Recommendations

Considering the shortages of labour in certain fishing fleets and the role of the EU to facilitate the free mobilization of workers across the region and improve safety at sea by setting minimum standards of fishers training, this study considers that an **EU standard for training of fishers** would improve the level playing field for mutual recognition of fisher's certificates, promote fisher mobility, and contribute to the overall attractiveness of the fishing sector. It has also been argued that it would reduce the administrative costs and burdens associated with the current system of recognition in particular in countries with large fishing fleets. Furthermore, an EU-wide standard could be integrated in the current legislative framework through specific legislation, as is the case for the training of EU sailors and seafarers.

The EU lacks **data collection on the social security of fishers**. An analysis of the state of play is hindered by a general lack of social data about the EU fishing sector. For example, a focus on the small-scale fisheries sector is hindered by the absence of reliable statistics on the population of fishers that are involved in this type of fishing. This report, therefore, provides an important initial overview and acts as a baseline for future research. The Commission could consider increasing Member State requirements for the collection of data regarding employment statistics especially for small-scale fishers and the harmonization of basic definitions regarding employment relationships such as self-employed and unpaid worker. Specific recommendations for improvements in data collection concern the inclusion of the following variables, for each fishing fleet:

- full-time and part-time fishers working under formal contracts (or formal work agreements) and fishers without contracts;
- fishers with fixed salaries, share-paid or both;
- self-employed fishers;
- unpaid fishers by gender.

Collaboration with national agencies in charge of social security in each Member State could facilitate the collection of data of social security of fishers. A study estimating the level of informal labour (undeclared) in the fishing sector is also highly recommended.

Public campaigns to communicate the benefits and incentivise the **insertion of small-scale fishers in social security systems** can be also recommended.

In order to stimulate recruitment and generational renewal, and to increase the attractiveness of the fishing occupation, **setting minimum wages** on top of shared remunerations could be considered, given the increasing uncertainty due to climate change and the poor state of many fish stocks in the EU. Using funds collected from fishing fines can be implemented as a practise to - at least partially - finance cessation periods due to climate change. Another advantage under minimum wages schemes is the extension of some social security benefits, such as unemployment and sickness payments, to trainees or youngsters who are starting in the profession.

In a few Member States fishers are considered workers of an arduous and hazardous occupation entitled to **early retirement**. This practise could also improve the attractiveness of the fishing sector.

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ANNEXES

Annex I. Regulated fishing professions (qualifications) and the restrictions governing their access (blanks = no data available).

Profession category	Actual profession	MS	Length	Propulsion power	Tonnage	Area
Boatswain	Boatswain	PT	<24 m (OR)		<= 100 GT (act as master) (OR)	Limited area (see Annex for details)
Chief engineer	Chief engineer (all fishing vessels)	NL				
	Chief engineer officer	IE		<2 000 kW		
	Chief engineer officer	ES		<2 000 kW		
	Chief engineer officer (<=180 kW)	ES		<=180 kW		
	Chief engineer officer (<=550 kW)	ES		<=550 kW		
	Chief engineer officer (fishing vessels <=1400 kW)	ES		<=1 400 kW		
	Chief engineer officer (fishing vessels <=6000 kW)	ES		<=6 000 kW		
	Chief engineer officer on fishing vessel	FR				
	Chief engineer (fishing vessels <3000 kW)	NL		<3 000 kW		
Engineer	Engineer (all fishing vessels)	NL				
	Engineer officer (fishing vessel)	IE		No limitation		No limitation
	Engineer officer certificate of competency (fishing vessel) class 1	IE		No limitation		No limitation
	Engineer officer on any fishing vessel	ES		No limitation		
	Motorist 221 kW (fishing vessel)	BE		<= 221 kW		
	Motorist 750 kW (fishing vessel)	BE		<= 750 kW		
	Motorist unlimited propulsion power (fishing vessel)	BE		No limitation		
Engineering watch	Officer in charge of an engineering watch	FR				
	Officer in charge of an engineering watch (all fishing vessels)	ES		No limitation		
First mate	Chief mate of fishing vessels	ES		No limitation		
	Chief mate on fishing vessel	FR				
	Chief mate or mate (chief officer or deck officer)	ES	<=50 m			No limitation
	Chief mate or mate (chief officer or deck officer) (all vessels)	ES	No limitation			
	Deck officer/skipper fishing fleet < 45 m (first mate)	DK	<45 m			

	First mate on fishing vessel >45 m	DK	>45 m			
	Second officer of navigation of fishing vessels (<45 m OR <700 GT)	PT	<45 m (OR)		<700 GT	Not specified
	Second officer of navigation of fishing vessels (>=45 m OR GT>= 700)	PT	>=45 m (OR)		>=700 GT	Not specified
Mate or Second Hand	Second hand full	IE				No limitation
	Second hand limited	IE				Limited area (not specified)
	Second hand special	IE	<=24 m			Limited area (not specified)
	Mate (all fishing vessels)	NL				
	Mate all fishing vessels	NL	No limitation			
	Mate-engineer (all fishing vessels)	NL				
Navigational watch	Officer in charge of a navigational watch	FR				
Seaman	Able fisherman of seagoing fishing	PL				
	Able Seaman	PT				
	Coastal fisherman	EE				Not mentioned but maybe coastal zones
	Fisherman	PT				
	Fisherman	SI				
	Fisherman of seagoing fishing	PL				
	Fishing seaman: handling the vessel (<10 m) (fishing or aquaculture)	ES		<10 m	'adequate power for the boat'	'internal waters of ports'
	Fishing seaman: working as a sailor (fishing or aquaculture)	ES	No apparent limitations	No apparent limitations	No apparent limitations	No apparent limitations
	Helmsman (fishing vessel)	BE				
	Seaman (fishing vessel)	BE				
Second engineer	Second engineer (fishing vessels <3 000 kW)	NL		<3 000 kW		
	Second engineer officer	IE		No limitation		No limitation
	Second engineer officer	ES		No limitation		No limitation
	Second engineer officer (all fishing vessels)	ES		No limitation		
	Second engineer officer (fishing vessel)	IE		<3 000 kW		
	Second engineer officer (fishing vessels <=6 000 kW)	ES		<=6 000 kW		
	Second engineer officer of fishing vessels (<=750 kW)	ES		<=750 kW		
	Second engineer officer on fishing vessel	FR				

Skipper or Master	Deck officer certificate of competency (fishing vessel) skipper full	IE				No limitation
	Deck officer/skipper fishing fleet < 45 m (Master)	DK	<45 m			
	Fisherman/skipper on fishing vessel	DK	<=15 m			
	Fishing and navigating the fishing vessel	PL				
	Master (captain)	ES	<=30 m (AND)			Limited area (see Annex for details)
	Master (captain) and/or chief engineer officer onboard coastal fishing vessels	ES	<=12 m	<=100 kW		Up to 12 miles from the Spanish coastline
	Master (sea captain) (fishing vessels <= 50 m)	ES	<=50 m			
	Master of fishing vessels (<33 m OR <250 GT) (within specific geographical limits)	PT	<33 m (OR)		<250 GT	Limited area (see Annex for details)
	Master of fishing vessels (<45 m OR GT <=700)	PT	<45 m (OR)		<700 GT	No limitation
	Master of fishing vessels in unlimited waters	ES				
	Master on fishing vessel	FR				
	Skipper	DK	>45 m			
	Skipper	PT	>45 m			
	Skipper (all fishing vessels)	NL				
	Skipper all fishing vessels	NL	No limitation			
	Skipper fishing vessels (under 60 m)	NL	<60 m			
	Skipper of fishing vessels (<9 m) (specific geographical limits)	PT	<9 m			Limited area (see Annex for details)
	Skipper fishing vessels (under 100 m in limited area)	IE	<100 m			Limited area (not specified)
	Master and/or chief engineer officer (<= 24 m and <400 kW)	ES	<=24 m	<400 kW		Up to 60 miles from the Spanish coast
Substitute skipper	Substitute skipper (fishing vessels <=60 m)	NL	<=60 m			
	Substitute skipper all fishing vessels	NL	No limitation			
	Substitute skipper vessels (under 60 m)	NL	<60 m			

Data source: Regulated Professions Database

Annex II. Mobility decisions in the EU fishing sector by category, home MS, and regulated profession

Decision category/home country/regulated profession name	Host country																		Total
	BE	BG	EE	FR	DE	EL	IS	IE	IT	LV	LT	NL	NO	PL	PT	ES	SE	UK	
1. Being examined												1		1	4	135	9		150
Denmark												1		1			9		11
Deck officer/skipper fishing fleet > 45 m (first mate on fishing vessel)																	5		5
Fisherman and master of a fishing vessel												1		1			4		6
France															4	53			57
Chief engineer officer on fishing vessel															1	4			5
Chief mate on fishing vessel																20			20
Master on fishing vessel															1	17			18
Officer in charge of a navigational watch																8			8
Officer in charge of an engineering watch															1	1			2
Second engineer officer on fishing vessel															1	3			4
Portugal																82			82
Able seaman (fisheries)																35			35
Boatswain (fishing activity)																7			7
Fisherman																27			27
Fishing skipper (long distance)																6			6
Skipper (coastal fishing vessels)																7			7
2. Check of qualifications (Article 7.4.(2)) - negative automatic															1				1
France															1				1
Chief engineer officer on fishing vessel															1				1
3. Check of qualifications (Article 7.4.(2)) - positive automatic				1			2							5	17	385			410
France							2							5	17	128			152
Chief engineer officer on fishing vessel							1								7	38			46
Chief mate on fishing vessel																2			2
Master on fishing vessel							1									6			7
Officer in charge of a navigational watch														2		15			17

Officer in charge of an engineering watch															5	31			36
Second engineer officer on fishing vessel														3	5	36			44
Portugal				1												257			258
Able seaman (fisheries)																157			157
Boatswain (fishing activity)																20			20
Fisherman																3			3
Fishing skipper (long distance)																14			14
Local fishing vessel skipper																22			22
Skipper (coastal fishing vessels)																21			21
Skipper (fishing vessels)				1												20			21
4. Check of qualifications (Article 7.4(3)) - negative after compensation measure							1								1	15			17
France							1								1	15			17
Chief mate on fishing vessel																7			7
Master on fishing vessel															1	8			9
Officer in charge of a navigational watch							1												1
5. Check of qualifications (Article 7.4(3)) - positive after compensation measure																26			26
France																26			26
Chief mate on fishing vessel																13			13
Master on fishing vessel																13			13
6. Declarations received by the host country (Art. 7.1)- except cases covered by Art. 7.4							4							5		51			60
France							4							5		4			13
Chief engineer officer on fishing vessel							1									1			2
Chief mate on fishing vessel																1			1
Master on fishing vessel							2									2			4
Officer in charge of a navigational watch							1							2					3
Second engineer officer on fishing vessel														3					3
Portugal																47			47
Able seaman (fisheries)																32			32
Boatswain (fishing activity)																2			2
Fishing skipper (long distance)																2			2

Local fishing vessel skipper																2			2
Skipper (fishing vessels)																9			9
7. Negative after aptitude test (general system)																1			1
Portugal																1			1
Fisherman																1			1
8. Negative Automatic General System and professional experience ('crafts')							1			5				15		5			26
Denmark							1			5				15					21
Fisherman and master of a fishing vessel							1			5				15					21
Portugal																5			5
Able seaman (fisheries)																1			1
Boatswain (fishing activity)																2			2
Fishing skipper (long distance)																1			1
Skipper (coastal fishing vessels)																1			1
9. No check of qualifications (Article 7.4.(2)) - positive automatic																46			46
Portugal																46			46
Able seaman (fisheries)																35			35
Boatswain (fishing activity)																4			4
Fishing skipper (long distance)																2			2
Local fishing vessel skipper																2			2
Skipper (coastal fishing vessels)																2			2
Skipper (fishing vessels)																1			1
10. Positive after adaptation (general system)							11			1		12	2	16			15		57
Denmark							11			1		11	2	16			15		56
Deck officer/skipper fishing fleet < 45 m (master)												2							2
Deck officer/skipper fishing fleet > 45 m (first mate on fishing vessel)							1					3	1	1					6
Deck officer/skipper fishing fleet > 45 m (master)																	1		1
Fisherman and Master of a fishing vessel							10			1		6	1	15			14		47
France												1							1
Master on fishing vessel												1							1
11. Positive after aptitude test (general system)							1			2	3			5		23	17		51

Denmark										2				3			17		22
Fisherman and master of a fishing vessel										2				3			17		22
France							1				3			2		23			29
Chief engineer officer on fishing vessel							1				1								2
Chief mate on fishing vessel																23			23
Officer in charge of an engineering watch											1			2					3
Second engineer officer on fishing vessel											1								1
12. Positive Automatic General System (no compensation measures imposed)	1	2	3	1	1	4	12	1	1	6	3	32		38	306	422		6	839
Belgium				1								16							17
Seafarer (mechanic) (fishing fleet)												5							5
Seafarers (deck) (Fishing fleet)				1								11							12
Denmark			3							2		14		20					39
Fisherman and master of a fishing vessel			3							2		14		20					39
France	1						2				3	1		1	14	174			196
Chief engineer officer on fishing vessel							1				1	1		1	9	67			80
Chief mate on fishing vessel															2	14			16
Master on fishing vessel	1														2	48			51
Officer in charge of a navigational watch																2			2
Officer in charge of an engineering watch																17			17
Second engineer officer on fishing vessel							1				2				1	26			30
Ireland		2			1	4						1		17				6	31
Deck officer certificate of competency (fishing vessel) second hand full		2			1	4						1		17				6	31
Poland										2									2
Fisherman of seagoing fishing										1									1
Skipper class 1 seagoing fishing										1									1
Portugal									1							248			249
Able seaman (fisheries)																59			59
Boatswain (fishing activity)																31			31
Fisherman																54			54
Fishing skipper (long distance)									1							29			30

Training and social security schemes for fishers

Local fishing vessel skipper																3			3
Local fishing vessel skipper																4			4
Skipper (coastal fishing vessels)																50			50
Skipper (fishing vessels)																18			18
Spain							10	1		2						292			305
Chief engineer class 1 (fishing sector)							7												7
Deep-sea fishing vessel skipper							1												1
Fishing seaman																291			291
Inshore fishing vessel skipper							1	1								1			3
Naval engineer (fishing sector)							1			1									2
Second naval engineer class II (fishing sector)										1									1
13. Undergoing adaptation period										29	1				26				56
Denmark										29	1				26				56
Fisherman and master of a fishing vessel										29	1				26				56
Total	1	2	3	2	1	4	32	1	1	43	7	45	2	111	329	1109	41	6	1740

Data source: Regulated Professions Database

Annex III. Interviews (consultation) results

Perspective of the European Transport Workers' Federation (ETF)

On Friday 29 September 2023 we interviewed two representatives of the European Transport Workers' Federation (ETF): Mr Andrea Albertazzi, Policy Officer for Fisheries, and Mr Juan Manuel Trujillo Castillo, president of the *ETF Fisheries Section*. We asked them about their perspectives on the current system of recognition of fishers' certificates, the state of ratification of the STCW-F Convention by EU Member States, and possible alternatives to widespread ratification. For the latter we focused on the proposed route of implementing the convention's provisions into EU law through a Directive (van der Zwan, 2018).

The ETF is one of the three social partners in the SSDC-F, but it is the only employee's organisation. As such, with regard to the topic of training and safety of fishers, the ETF represents and defends the interests of the employees on board fishing vessels. More generally, the ETF Fisheries Section 'fights to improve working conditions, safety and training for over 150 000 women and men who work as fishers across Europe'. Promoting the wider ratification and enforcement of international conventions is a core focus of the ETF, an effort which has been clearly demonstrated for the ILO Work in Fishing Convention (C188)⁷².

Together with the other social partners, the ETF also advocates for the ratification and implementation of the STCW-F Convention. When asked about the ETF's position with regard to the need for widespread ratification, Mr Albertazzi started by establishing a number of key arguments in favour of implementing the STCW-F Convention as the common standard across the EU. He emphasised that governing safety at sea and on board of fishing vessels through an internationally recognised standard could play a role in improving the overall attractiveness of fishing professions and the fishing sector as a whole. Mr Albertazzi asserts that the absence of a common standard for training and certification has been identified by the ETF as a factor negatively influencing sector attractiveness.

Together with *Europêche*, the ETF has been lobbying towards getting the STCW-F Convention ratified by EU Member States, and getting it implemented in EU law. This was accomplished for the ILO Work in Fishing Convention (C188) through a procedure stipulated in Article 155, paragraph 2 of the TFEU. Article 155 provides for social partners agreements at Union level to be transposed into Union law by means of a Council decision on a proposal from the European Commission (context added by the authors). This was then implemented through Council Directive (EU) 2017/159.

According to Mr Albertazzi, the Commission has indicated that the same procedure would not apply to the implementation of the STCW-F Convention into EU law on the basis of Article 155⁷³. Nevertheless, Mr Albertazzi takes note of a number of 'good developments' in the Commission's stance on the matter, from the perspective of the ETF. First, the Commission issued a Communication to the European Parliament and the Council on 21 February 2023 on the status of the Common Fisheries Policy, entitled 'The common fisheries policy today and tomorrow: a Fisheries and Oceans Pact towards sustainable, science-based, innovative and inclusive fisheries management' (COM(2023) 103 final)⁷⁴ (EC, 2023) (details added by the authors). In this document, the Commission states the following: '[The Commission will] consider proposing, after the adoption of the revised International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F), a directive to ensure its correct transposition into the EU legal order and will assist Member States to

⁷² see: <https://www.etf-europe.org/the-fishing-sector-joins-forces-with-the-international-community-to-call-for-wide-ratification-of-ilo-c188/>

⁷³ This is confirmed by the letter from the Commission to the social partners received on 3 March 2018 (van der Zwan, 2018, p. 50).

⁷⁴ see: https://oceans-and-fisheries.ec.europa.eu/system/files/2023-02/COM-2023-103_en.pdf

accelerate ratification of the ILO and IMO conventions' (context added by the authors). A second positive point for the ETF is that DG MARE is actively involved in the revision of the STCW-F Convention, and even has extended an accredited representative of the European Commission to the IMO.

When asked about the risks associated with the lack of (widespread) ratification of the Convention, Mr Albertazzi and Mr Trujillo shared with us (in addition to the argument made at the beginning of the interview about the attractiveness of the sector), a couple of elements which were heard from members in the ETF's constituency. A key obstacle appears to be the hampering of free movement of individuals within the EU. However, this also affects fishing professionals from non-EU countries working on board EU fishing vessels.

Mr Albertazzi argues that widespread ratification is, above all, a matter of being able to *move forward*. The sector is suffering from, among others, low rates of intergenerational replacement and it is key to improve the attractiveness of the sector. 'Acceptable working conditions' are key to accomplishing this. Widespread ratification of the Convention and its subsequent implementation into EU law would directly benefit the quality of fishers' lives in terms of a safer working environment, improved attractiveness of the fishing sector, and a facilitation of mobility of fishers across the EU. Mr Trujillo adds to this the need for an EU-wide standard on training and certification of fishers, rooted in the STCW-F Convention. Specifically this aspect will allow qualified fishers to work in other countries.

Mr Albertazzi notes that the need for ratification of STCW-F is shared by the employers and their organisations. He claims that making a common standard based on STCW-F obligatory is a matter of ensuring fair competition among Member States, *and* with non-EU countries. It is a matter of *protecting the EU fishing sector*. Low standards open the door to lower pay and may negatively affect the competitiveness of EU fishing companies, which is already under threat. Another factor undermining competitiveness is the lack of a working language on board (see section 2.1.2). Finally, Mr Albertazzi invokes the high import rates of fish in the EU. As such, he claims, the ratification of STCW-F is also important with regard to food sovereignty and food autonomy of the EU.

As regards the advantages of an EU-wide standard (i.e. implementation into EU law through a Directive) compared to widespread ratification by individual Member States, Mr Albertazzi explains that a Directive would put more pressure on the Member States as it provides a legal framework to hold them accountable in case of infringement.

Mr Trujillo also emphasised the need for ratification and/or implementation of STCW-F (i.e. in addition to STCW) by pointing towards the differences in scope between *seafaring* and *fishing*. The qualifications required for fishing include much more than navigation skills alone.

Perspective of the European Commission (DG MARE)

On Tuesday 26 September 2023 we interviewed three representatives of the team at DG MARE that oversees the revision of the STCW-F Convention on behalf of the Commission. The invited representative of DG MOVE accredited to the IMO specifically for the revision of the STCW-F Convention was not present. The interview was organised around four key questions:

- (1) What are, to the knowledge of DG MARE, the main reasons for Member States not to ratify the STCW-F Convention?
- (2) Why is there a need for the revision of the STCW-F Convention?
- (3) With the revision of the STCW-F Convention coming to an end, what are, according to DG MARE, the perspectives with regard to ratification by EU Member States?

- (4) What would be the alternative to widespread ratification? (note: this question specifically gauges the possibility of the route suggested by van der Zwan (2018) – i.e. that of implementing the convention into EU law)

The reasons for not ratifying the STCW-F Convention are not fully known to DG MARE, as Member States are not obliged to inform the Commission about their motivations. We were referred to a consultant to the IMO with extensive expertise on the STCW-F Convention. Anecdotal information known to DG MARE about the reasons not to ratify include a high administrative workload and budget considerations (especially heard from countries with large fleets, for which the STCW-F Convention could be a big administrative and/or financial burden). Another aspect invoked by DG MARE is that MS tend to propose actions that align with EU law. Voluntarily going beyond the EU framework is problematic for some Member States.

DG MARE clarified that the EU is only an observer at the IMO with regard to the revision of the STCW-F Convention. The role of DG MARE is to advise Member States during the negotiations and to encourage them to ratify the convention. DG MARE confirms that the Commission is absolutely pushing for widespread ratification. The legal basis for this is Council Decision 2015/799. The Commission is committed to improving ratification, as expressed in its Communication of 21 February 2023 (COM(2023) 103 final)⁷⁵. Moreover, in this document, the Commission states that it will ‘consider proposing, after the adoption of the revised International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F), a directive to ensure its correct transposition into the EU legal order and will assist Member States to accelerate ratification of the ILO and IMO conventions.’ DG MARE emphasises the term ‘consider’ in this paragraph, as announced in the Fisheries policy package adopted on 21 February 2023.

DG MARE explains and nuances the process of ratification and the option of implementing the convention into EU law through a Directive. This option is the one defended by van der Zwan (2018) on the basis of Article 155 of the TFEU (context added by the authors after the interview). For DG MARE, ratification and implementation into EU law are *parallel processes*. Widespread ratification is the first goal, as this would be evidence of a broad support for STCW-F. This could then potentially lead to further steps (such as transposition through a Directive, for instance). DG MARE establishes that transposition into a Directive means *more rules*, which is not necessarily welcomed by all MS. The importance of *substance* is also emphasised – i.e. what counts is which provisions are included in the STCW-F. Member States that have ratified the convention have the option of including these provisions into their national legislation. The potential route of transposing the convention through a Directive would indeed make the instrument binding for all EU Member States, but it is not a necessary condition for its implementation at national level (those who are already party to STCW-F are legally obliged to apply the instrument at national level already).

The revision of the STCW-F Convention is set to be concluded in May 2024 with an indicative entry into force in January 2026. Member States that have already ratified the 1995 Convention will not need to proceed with ratification again, the revised text will automatically apply to them. For more context and a confirmation of the dates, we are referred to the IMO. When asked about why a revision of the STCW-F Convention was needed, DG MARE invokes the following points. First, it was mentioned that ‘people on the ground have been asking about it’ (i.e. employers and employees in the fishing sector). DG MARE also notes that the revision of STCW-F is happening in parallel to the revision/updating of the STCW Convention applying to seafarers. Second, the Commission observes that human error is at the basis of most accidents at sea, making a minimum standard for fishers’ training all the more important. Third,

⁷⁵ Source: https://oceans-and-fisheries.ec.europa.eu/system/files/2023-02/COM-2023-103_en.pdf

DG MARE argues that an EU-wide standard for fishers' training and certification is necessary to ensure a level playing field across Member States and to face specific challenges such as low attractiveness to the sector and low rates of generational renewal of fishers (as the standards seek to address safety issues first and foremost).

Insights from van der Zwan (2018) and interview (2023)

The perspective of van der Zwan (2018)⁷⁶ has been made extensively clear throughout this document. In this section, we will complement this perspective with recent views expressed by Mr Ment van der Zwan in an interview conducted on 18 August 2023.

Van der Zwan argues that the general system of recognition (Directive 2005/36/EC) is inefficient and does not promote mobility of fishers. His 2018 report invokes the high number of instances in which the applicant is required to fulfil an additional training programme in the host country, often in a language they do not command at a sufficient level for successful training. In the interview, he adds: *'the system is too complicated, and too bureaucratic; its time frame is too long'*. Furthermore, van der Zwan (2018) argues, Directive 2005/36/EC does not promote the development of standardised levels of training for safety at sea in fishing. Van der Zwan states that an EU-wide standard based on STCW-F would allow the training system and the resulting certificates of competence to be harmonised. *'The goal is to get them approved'*, he says, and the current system based on Directive 2005/36/EC does that insufficiently.

Our analysis shows that compensation measures and/or aptitude tests were required in 208 cases over the entire reference period (about 12% of all decisions). A closer look at the data shows that such measures were only required for qualifications from Denmark (n=134), France (n=174), and Portugal (n=1), with peaks in 2006 and 2018. However, it may be more relevant to consider the timeline of 'positive automatic decisions' (i.e. pathways with the least friction). Van der Zwan hints at this in the interview, claiming that *'countries that have ratified STCW-F do not use the system [laid down in Directive 2005/36/EC]'*. In other words, Member States that have ratified STCW-F comply with the Directive, but effectively only verify qualifications based on STCW-F provisions. Our analyses suggest that this is indeed the case: the bulk of positive automatic decisions were made by the competent authorities in Spain and Portugal (together 92% of decisions). Spain is responsible for 853 decisions (66% of all automatic positive decisions), of which 560 since 2012 (i.e. the date of Spain's accession to STCW-F). The majority of these decisions concerned qualifications from Portugal (n=551). With 323 decisions by the competent authority, Portugal is the second host country with the most positive automatic decisions (25% of the total). The majority of decisions were for qualifications from Spain (n=292); all but one after Portugal's accession to the STCW-F (in 2017).

In their meeting of 9 February 2018; the social partners asked the European Commission for an official legal opinion on the application of Article 155 of the TFEU. The Commission replied on 3 March 2018: *'[...] However, the simple fact that the social partners are implied does not automatically give access to the procedure laid down in Article 155 TFEU. For this to be possible, the subject matter of the agreement has to fall within the scope of Article 153 TFEU. This is not the case in this matter as most of the articles of the convention concern professional/vocational qualifications and training issues (certification, minimum knowledge) for fishermen. These subjects are not covered by Article 153. Consequently, with regard to the STCW-F Convention, we consider the procedure of Article 155 not to be appropriate. [...]'* (for the rest of the letter we refer to van der Zwan (2018), p. 50).

⁷⁶ Van der Zwan's 2018 study was written on behalf of the social partners in sea-fishing.

In the section 'The competences of the social partners' (p. 50), van der Zwan (2018) provides a detailed argumentation of why the social partners deem the European Commission's decision unfounded. We recommend especially the passage in which the study draws a comparison with the STCW Convention, which was implemented through an EU Directive because Member States were not taking their responsibilities with regard to safety at sea (i.e. based on the principle of subsidiarity). The basis for the Directive was not the tandem Article 153/155 of the TFEU, however, but Article 100 (related to the EU's transport policy)

Insights from Ackermann *et al.* (2018)

The authors of the 2018 study on 'Training of Fishers', commissioned by the PECH Committee (Ackermann *et al.* 2018) frame the lack of an EU standard for training and certification of fishers around three key elements: (1) it hampers the free movement of workers within the EU, as established in Articles 45 and 46 of the TFEU, (2) it may act as a driver for illegal and abusive practices, and (3) it is a waste of energy and resources.

The authors found indications of significant movement of fishers, both between EU Member States and into the EU (e.g. according to their findings, Ireland had up to 42% non-EAA fishers in 2018). The authors attribute this movement into the EU to a problem of recruitment of fishers within the EU, and possibly also [operators'] need to minimise costs. As such, the points made by Ackermann *et al.* echo the arguments of the ETF and the European Commission with regard to the dwindling attractiveness of the sector being a major bottleneck.

The authors furthermore acknowledge that (safety) training requirements for working on board fishing vessels are complex, given that they vary according to the role on board and between Member States. Our analyses confirm this complexity. The authors point out that, as a consequence of this complexity, there is a range of mechanisms for validating [or ensuring]⁷⁷ the equivalence of certificates issued in different Member States.

The current basis for mutual recognition of fishing certificates is Directive 2005/36/EC, and the validation mechanisms mentioned by Ackermann *et al.* are discussed in section 2.3.4 (see Figure 7). However, as we noted earlier, the *criteria* for validating the equivalence of certificates are not transparent. This issue was already identified by the authors of the Bénodet Report *Europêche et al.* 2000. The Regulated Professions Database does not provide information in this regard either.

Ackermann *et al.* argue that this complexity may act as an incentive to circumvent the laws of Member States, and that it may be contributing to illegal labour in the EU fishing sector. Furthermore, just like van der Zwan (2018, interview), the authors of the PECH study deem that the current system for recognition based on Directive 2005/36/EC involves 'a significant waste of time and effort on the part of authorities, fishing companies, and fishers'. They point to the inefficiency of following elements in particular (adapted from Ackermann *et al.* 2018, p. 41):

- maintaining multiple standards;
- finding out and understanding what the standards in different MS are;
- finding out and understanding what validation and/or conversion steps are required in different MS, and how to do this;

⁷⁷ Original text mentioned 'checking'. 'Ensuring' here must be interpreted as 'ensuring that the necessary training requirements are fulfilled for the qualification to be recognized by the host Member State'. This could involve, for example, an obligatory adaptation period or additional training.

- applying for validation of certificates issued in other countries;
- validating the equivalence of safety training and certificates issued in different MS;
- undergoing conversion and/or top-up training; and
- checking for compliance against multiple standards when undertaking port-state control.

As such, the authors conclude, based on information gathered through stakeholder consultation: ‘[...] the possible adoption of a common standard on the training and certification of fishers would be a positive development, as it would facilitate the free movement of fishers and in doing so might promote interest amongst young people in some MS to enter the industry. It would also contribute to the development of a ‘level playing field’ in the fisheries sector, and could enhance the performance of the EU fishing fleet’

Finally, the authors make a very important observation with regard to our discussion about widespread ratification vs implementation through an EU Directive. As established above, while widespread ratification by Member States *could* promote a *de facto* standard in the EU based on the STCW-F provisions, this is not necessarily the case. Ackermann *et al.* assert that standards more advanced than those of the STCW-F *already* exist in some Member States. Unless these Member States turn back their requirements, differences between Member States would remain. The authors invoke the case of mobility of Latvian fishers to the United Kingdom (then still an EU Member State); although Latvia ratified the STCW-F, they still had to undertake additional training to work on UK fishing vessels. According to the authors, ‘the real implementation of a common standard’ is subject to the differences in the interpretation of the [STCW-F Convention], as well as differences in enforcement capacity. Without such a standard, MS’ administrations may have to keep dealing with differences in requirements between MS, and safety at sea may only be partly improved due to unequal levels of training. This argument is reminiscent of the comments by the social partners that an EU Directive would allow for a stronger standard that is more easily enforceable.

Annex IV. Employment in the EU fisheries sector per fishing fleet in 2019.

Member States	Fishers in SSF	Fishers in LSF	Fishers in DWF	Total fishers	Full-time employment	age >65	Average income (€/FTE) **
Belgium	n.a.	n.a.	n.a.	322	70%	n.a.	n.a.
Bulgaria	n.a.	262*	n.a.	1 761	35%	17%	n.a.
Croatia	5 635	2 351	n.a.	7 952	40%	17%	99
Cyprus	1 203	172*	n.a.	1 267	63%	8%	112
Denmark	n.a.	n.a.	n.a.	1 238	80%	18%	194
Estonia	1 950*	150*	n.a.	1 318	24%	31%	211
Finland	1 118	138	n.a.	1 256	32%	2%	53
France	6 084	5 836	497	12 417	49%*	5%	138
Germany	839*	522*	307*	1 209	61%	1%	183
Greece	14 340	n.a.	n.a.	18 693	78%	n.a.	142
Ireland	1 180	1 976*	n.a.	2 928	92%	4%	272
Italy	9 829	13 420*	84*	21 368	62%	6%	113
Latvia	272	269	n.a.	541	46%	10%	273
Lithuania	140	81	189*	449	90%	8%	127
Malta	770	218	n.a.	987	53%	12%	130
The Netherlands	n.a.	n.a.	n.a.	1 700*	86%*	4%	105
Poland	n.a.	n.a.	n.a.	n.a.	n.a.	6%	165
Portugal	11 310*	7 605*	585*	13 415	54%	6%	107
Romania	286	153	n.a.	439	SSF: 6% LSF: 25%	n.a.	93
Slovenia	79*	22*	n.a.	84	57%	13%	45
Spain	8 517	24 662*	n.a.	31 318	79%	0%	162
Sweden	n.a.	n.a.	n.a.	1 344	53%	26%	175

Data source: STECF 2019 and STECF 2022

Note * data from 2017, **variation in income variables and average prices of key input/outputs (2008=100)

This study presents the current state of play of the mutual recognition of certificates of competency of EU fishers and the functioning of the social security schemes that cover them. Based on the analysis of these topics, the study discusses the impact of the current situation on the mobility of fishers, on the fishing sector's working risks and security and ultimately on the attractiveness of the fishing sector to the EU workforce.

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