



## Social Security: applicable rules

It is the shipowner's responsibility to make sure that all seafarers employed on a Luxembourg flagged vessel are covered by a social security scheme. Shipowners should be able to properly document this obligation.

### **1. Seafarers who are Luxembourg nationals**

*Code of social security, Article 1.1.3), 85.1.3) and 170.2, first sentence*

→ if employed on board a vessel flying Luxembourg flag, they are covered by the Luxembourg social security scheme

### **2. Seafarers who are EU, EEA (Iceland, Liechtenstein, Norway) or Swiss nationals**

*EC regulations 883/2004 on the coordination of social security systems*

*General rules*

- they are treated equally as to the rights and obligations under the legislation of any Member State as the nationals thereof
- they are subject to the legislation of a single Member State only

*Article 11.4 first sentence*

→ if employed on board a vessel flying the Luxembourg flag, they are covered by the Luxembourg social security scheme

*Article 11.4 second sentence*

→ **However**, if the seafarer is remunerated by an employer whose place of business is in another EU/EEA State or in Switzerland and if the seafarer is also residing in that State, he shall be subject to the legislation of that State

*Article 12*

→ **Posting**: persons covered by the legislation of a Member State who are sent by their employer on a vessel to perform a temporary work on this vessel, remain subject to the said legislation for a maximum of 24 months

*Article 16*

→ **Exceptions**: Member States may agree on exceptions to the above mentioned rules (example: the Belgium-Luxembourg agreement dated 25 March 1991 states that seafarers belonging to the Belgian pool are covered by the Belgian social security scheme if employed on board of a Luxembourg flagged vessel, whatever their nationality)

### **3. Seafarers who are nationals of a third State (not Luxembourg, not EU/EEA/Swiss)**

*Code of social security, Articles 1.1.3), 85.1.3) and 170.2, first sentence + Luxembourg Maritime Act of 9 November 1990, Article 106*

→ if employed on board Luxembourg flagged vessels and residing in Luxembourg, they are covered by the Luxembourg social security scheme, irrespective of their nationality

→ if employed on board Luxembourg flagged vessels and not residing in Luxembourg

- Bilateral/Multilateral convention exists: the social security scheme foreseen in the convention applies (Flag State or country of residence of seafarer);
- No bilateral convention: seafarer to be covered by social security scheme in country of residence or private cover (scheme/cover must be in line with the provisions of MLC, 2006).