

SOCIAL CONDITIONS APPLICABLE TO WORKERS ENGAGED IN AN ACTIVITY RELATED TO MARINE RENEWABLE ENERGY (MRE) ON BOARD A SHIP OR AT AN OFFSHORE INSTALLATION

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The purpose of this factsheet is to describe the different social rules that apply to the crew (conditions of nationality, workforce, etc.) and to workers (working conditions, wages, social protection, etc.) on board vessels used for activities related to the installation, maintenance, or surveillance of marine renewable energy installations (wind farms, tidal turbines) in French territorial and inland waters, on the continental shelf or in the exclusive economic zone, as well as to workers on the offshore facilities themselves.

It is intended for ship owners or companies carrying out these activities, but also for principals (*i.e.* companies bidding for or having won a contract to install or operate an offshore wind farm, Chambers of Commerce (CCI, Chambre de Commerce et Industrie) or local authorities awarding an offshore works contract, etc.). They can refer to it when they are called upon to assess the offers made to them by maritime service providers. Abnormally low bids should alert them to compliance with these rules.

Indeed, their goal is to ensure that service providers operating ships are in a situation of fair competition on the markets linked in particular to MRE, which are growing strongly and are a source of employment. These rules contribute to the fight against social dumping at sea.

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<u>SHEET 1 : Qualification of personnel working in the field of MRE</u>
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I. Staff working on board a ship

A. Ships flying the French flag

→ Please refer to the diagram in Appendix for a summary presentation

Staff working on board ships flying the French flag used for the construction, servicing or maintenance of marine renewable energy facilities or for transporting staff working on such facilities may be qualified as seafarers or non-seafarers.

1) Seafarer seamen

Seafarers are the staff assigned to the operation of the ship, i.e. the professional activities relating to the operation, running, maintenance and the activities necessary to ensure all the ship's functions (Articles L. 5511-1, R. 5511-1 and R. 5511-2 of the Transport Code).

2) Seafarers other than seamen

Seafarers other than seamen are:

- On the one hand, staff employed on board exploration or mining vessels who prepare or serve meals to staff employed in activities related to offshore works or installations and whose time spent on board exceeds 45 days, whether or not continuous over a period of 6 consecutive months (Articles R. 5511-3 and R. 5511-7 of the Transport Code) ;
- On the other hand, staff who are not seamen who spend more than 45 days on board, continuously or not, over a period of 6 consecutive months (R. 5511-7) and who are not expressly listed among the non-seafarer workers referred to in Article R. 5511-5 of the Transport Code as referred to in 3).

3) Non-seafarers

Non-seafarers are:

- On the one hand, the staff listed in article R. 5511-5 of the Transport Code, in particular the:
 - Workers, technicians or engineers on board ships assigned to exploration or mining activities related to offshore works or installations ;
 - Interpreters, journalists, photographers ;
 - Staff providing non-maritime training;
- And further, staff who are not seamen who spend less than 45 days on board, continuously or not, over a period of 6 consecutive months (R. 5511-7) and who are not expressly listed among the non-seafarer workers referred to in Article R. 5511-5 of the Transport Code listed above.

B. Ships flying a foreign flag

Qualification of staff working on ships flying a foreign flag is determined by the French law (R.5561-1 III).

II. Staff working at sea, other than on a ship

Employees working on marine renewable energy installations are not seafarers.

Special provisions applicable to non-seafarer MRE employees

As detailed in *Fact Sheets 3 and 4*, certain provisions of the Transport Code mentioned in Article L. 5541-1-1 are applicable to non-seafarer staff doing work related to marine renewable energy on board a ship or on an offshore structure itself within the limits of the exclusive economic zone.

The staff concerned, covered by decree n°2016-754 of 7 June 2016 are :

→ Non-seafarer employees carrying out work on board or from a ship flying the French flag (except for French international register).

→ Non-seafarer employees carrying out work related to the construction, operation or use of artificial islands, installations and structures and any other activity carried out on or from these structures.

I. Ships flying the French flag first register

On board ships flying the French flag 1st register, the provisions of the Transport Code relating to the crew apply (articles L. 5521-1 and seq. of the Transport Code).

II. Ships flying the French flag other than first register or flying a foreign flag

Ships flying the French flag other than the first register or flying a foreign flag operating in the field of MRE in France in territorial or inland waters or on the continental shelf or in the exclusive economic zone (EEZ), are subject to the so-called "host State" system.». In this context, certain social standards relating to the crew of ships flying the French flag first register are applicable to them.

The host State system Ships used for maritime works (construction, servicing or maintenance of renewable marine energy production facilities) in French territorial or inland waters, or on the continental shelf or in the EEZ as well as ships used to transport staff working on these facilities, fall within the scope of the host State system defined in Article L. 5561-1 of the Transport Code, under the provision of the service provision performed by them, provided that this is carried out primarily in French waters. The criterion of principal activity is analysed with regard to the purpose of the contract. The host State system makes it possible to subject these ships, whatever their flag (including ships flying the French flag of the French International Register), to the same provisions relating to the nationality of the crew and the number of personnel on board as ships flying the French flag registered in the first register.

On the nationality of the crew

- The captain and the officer deputizing for him must be nationals of an EU Member State, a State party to the EEA agreement or the Swiss confederation or another State party to any international agreement having the same scope in terms of the right to remain and work.

Concerning more specifically the application of the nationality condition of the captain and the officer responsible for his replacement to British nationals, two cases must be distinguished:

- Vessels subject to the host State may only be manned by a captain and a deputy of British nationality if these nationals benefit from the maintenance of certain rights acquired as European citizens under the Withdrawal Agreement, s they resided in France before December 31, 2020 or if they arrive after this date and demonstrate a pre-existing family link before January 1, 2021 with a Briton already established in France. From January 1, 2022, these British people will have a specific residence permit marked "Withdrawal Agreement".
 - British nationals who do not fall under the aforementioned provisions cannot be captain or deputy of a vessel falling within the scope of application of the host State.
- No minimum proportion of nationals of an EU Member State, a State party to the EEA agreement or the Swiss confederation or another State party to any international agreement having the same scope in terms of the right to remain and work is currently required for the crew.

On manpower on board

The crew must be made up of a workforce of seamen sufficient in number and level of professional qualifications to guarantee the safety and security of the ship and the persons on board, as well as compliance with watchkeeping, working hours and rest obligations.

This obligation is fulfilled by the presentation of a minimum manning certificate or "*safe manning certificate*" issued by the flag State, which thus certifies that the ship's complement meets the requirements of the international manning standards. Compliance with the professional qualification requirement is assessed in the light of the requirements of the 1978 International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), as amended. In this respect, all qualifications held by seafarers employed on board ships subject to the host State system must comply with the requirements of this international convention in terms of diplomas, certification documents and training certificates.

Ships unable to present this certificate must submit to the procedure provided for in article R. 5561-3 of the Transport Code.

SHEET 3 : Social standards applicable to employees working in the MRE field

The host State's scheme applies to vessels (nationality of the crew, workforce) and employees working on board (social conditions). **Employees working at sea not on a vessel are not covered by this scheme.** However, if these employees are foreigners, they may come under the secondment scheme implemented by the Ministry of Labour.

1) Employees employed on board ships flying the French flag 1st register

For seafarers on board ships flying the French flag 1st register, the provisions of the Transport Code (Articles L. 5541-1 et seq.), in connection with the provisions of the Labour Code, apply.

For non-seafarer staff, it is the provisions of the Labour Code and the provisions of the Transport Code that have been made applicable to them by article L. 5541-1-1 of the Transport Code and 1° of decree no. 2016-754 of 7 June 2016 that apply. These provisions are as follows:

- The definition of effective work (article L. 5544-2 and L. 5544-3 of the Transport Code) ;
- The duration of the work (L.5544-4 and L. 5544-5) ;
- Overtime (L. 5544-8) ;
- Break times (L. 5544-11) ;
- Suspension of the organisation of working hours and rest periods in the event of danger to the safety of the ship or persons (L. 5544-13) ;
- Daily rest period (L. 5544-15) ;
- Weekly rest period (L. 5544-17 to L. 5544-20) ;
- Combining legal and conventional leave (L. 5544-23-1).

2) Employees employed on board ships flying the French flag other than 1st register or foreign flag

On board ships flying the French flag other than 1st register or foreign flag, certain social standards are applicable to employees under the so-called "host state" system.

The host State system

Ships used for maritime works (construction, servicing or maintenance of renewable marine energy production facilities) in French territorial or inland waters, or on the continental shelf or in the EEZ as well as ships used to transport staff working on these facilities, fall within the scope of the host State system defined in Article L. 5561-1 of the Transport Code, under the provision of the service provision performed by them, provided that this is carried out primarily in French waters. The criterion of principal activity is analysed with regard to the purpose of the contract.

The host State system makes it possible to subject these ships, whatever their flag (including ships flying the French flag of the French International Register), to the same provisions relating to the nationality of the crew and the number of personnel on board as ships flying the French flag registered in the first register.

a) Standards applicable to all employees working on board

Seafarers and non-seafarers employed on board ships subject to the host State system benefit from all the legal provisions and contractual stipulations (extended collective agreements and other agreements) applicable to employees employed by companies in the same industry established in France in the matters provided for in Article L. 5562-1 of the Transport Code, which are as follows :

- Individual and collective freedoms in the employment relationship;
- Discrimination and professional equality between women and men;
- Maternity protection, maternity and paternity leave and childcare, leave for family events;
- Conditions of availability and guarantees due to employees by companies carrying out temporary work activities;
- Exercise of the right to strike;
- Working hours, time off in lieu, paid annual leave, working hours and night work for young workers;
- Minimum wage and payment of wages, including overtime bonuses;
- Rules relating to health and safety at work, legal working age, child labour;
- Illegal work.

Companies should therefore find out about the collective and other agreements that apply in France for the activities they propose to carry out in French territorial or inland waters or on the continental shelf or in the EEZ, and about the legal provisions relating to these various matters, including the minimum wage and working hours. Contractors are encouraged to pay attention to this point when selecting a shipping company.

b) Standards applicable to seafarers working on board only

i. Conditions connected to the employment contract

Every seafarer must have a written employment contract containing the mandatory information provided for in Article L. 5562-2 of the Transport Code, which are as follows:

- His surname and first names, his date and place of birth, his identification number or any other equivalent reference;
- The place and date of conclusion of the contract;
- The surname and forenames or company name and address of the shipowner, employer or person acting in an official capacity;
- The service for which the employee is engaged;
- The duties performed by the employee;
- The amount of wages and discretionary earnings and the number of working hours to which the remuneration provided relates;
- Holiday pay entitlements or the formula used to calculate them;
- The health and social security protection to be provided by the shipowner, the employer or acting individual;
- The right to repatriation;
- The title of the extended French national collective agreement covering ships flying the French flag and carrying out the same navigation and reference to applicable collective agreements within the company;
- The term of the contract if it is concluded for a fixed period.

There are no special conditions for non-seafarer employees.

ii. Condition for entitlement to a social protection scheme

Standard cases

In accordance with Article L. 5563-1 of the Transport Code, seafarers, whether employed at sea or not, who are subject to the host State's scheme must benefit from the social protection system of one of the members of the European Union (EU) or a State party to the European Economic Area (EEA) Agreement.

In the absence of affiliation to a social protection system of a Member State of the EU or a State party to the EEA Agreement under the rules of inter-system coordination,¹ including the ENIM, affiliation to France's general social security system is mandatory for seafarers, whether employed at sea or not, in accordance with Point 34 of Article L. 311-3 of the French Social Security Code.

The social protection system cannot under any circumstances be a private insurance and must necessarily cover the risks mentioned in Article L.5563-1 of the Transport Code:

- The health risk, covering illness, disability, work-related accidents, and occupational disease;
- The maternity and family risk;
- The employment risk, covering unemployment;
- The risk of old age.

Special cases

❖ United Kingdom nationals

In accordance with Articles 30 and 31 of the Brexit Agreement or the Agreement of 12/11/2019 on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (2019/C3841/01), British social security is considered to be a European social protection system within the meaning of Article L. 5563-1 of the Transport Code.

As such, seafarers, whether employed at sea or not, embarked on a vessel subject to the host State's scheme and affiliated with a British social security system, may retain membership of their social security system.

❖ Nationals of a State linked to France by a bilateral social security agreement

Seafarers, whether employed at sea or not, who are nationals of a State bound to France by a bilateral social security convention, benefit from the social protection system determined under the provisions of the convention.

¹ Regulation (EC) No 883/2004 of 29 April 2004, supplemented by Regulation (EC) No 987/2009 of 16 September 2009, lays down the procedure for applying the coordination of social security systems for Community nationals.

<u>SHEET 4 : Special case of maximum working hours and postponement of weekly rest periods applicable to workers on MRE farms</u>
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Ces dispositions s'appliquent aux salariés gens de mer ou non gens de mer travaillant à bord des navires ou sur les installations de production EMR elles-mêmes (article L. 5541-1-1 du code des transports). These provisions also apply to employees other than seafarers who work alternately at sea and on land if they spend at least half of their working time at sea.

I. Exceeding the maximum daily and weekly working hours

The maximum working time is 14 hours in a 24-hour period and 72 hours in a 7 day period (I of Article L. 5544-4 of the Transport Code).

Exemptions to this maximum working time may be made in accordance with the following terms and conditions:

1) The terms and conditions according to which exemptions to the maximum working time may be made must be determined in an agreement or collective agreement

For seafarers, by an agreement, an extended collective agreement or a company or establishment agreement dividing the working week or a period other than a week to take into account the continuity of the ship's activity, port constraints or the safeguarding of the ship at sea (II of Article L. 5544-4 of the Transport Code).

The convention or agreement must provide for:

- Measures ensuring compliance in all circumstances with the obligation to keep watch;
- The granting of consecutive rest periods to prevent fatigue;
- The granting of periods of leave to compensate for any derogations from the maximum working time;
- Measures to monitor actual working hours on board and to prevent fatigue.

For employees who are not seafarers covered by Article L. 5541-1-1 of the Transport Code, by a company or establishment agreement dividing the working hours over a period of at most two consecutive working weeks followed by a period of consecutive rest of equal duration to that of the working period to take into account the continuity of activities carried out at sea, port constraints or the safeguarding of the ship or the installations and equipment at sea or the alternation of work at sea and on land (1° of Article L. 5541-1-1 of the Transport Code).

Using other methods of organising working time

It should be noted that the working time organisation system provided for in Article L5541-1-1 of the Transport Code is not exclusive of the use of other methods of organising working time in application of the provisions of the Labour Code.

It is therefore possible to put in place working time organisation based on the Labour Code, in particular the calculation of working time, for seafarers (seamen and seafarers other than seamen) and the workers other than seafarers mentioned in Article L. 5541-1-1 of the Transport Code.

In any case, when calculating annualised working time, as soon as workers fall within the scope of Article L. 5541-1-1, and if provided for under an agreement, they must organise their working time in the form of a

cycle of 2 weeks at most of work followed by a consecutive rest period of a duration equal to that of the working period. Dans ce cas, les heures supplémentaires peuvent être décomptées sur l'année ou sur le cycle.

2) Limits on exceeding working time must be complied with

- The maximum working time must not exceed 84 hours per 7-day period (Article 7 of Decree No. 2005-305 of 31 March 2005 on seafarers' working hours).

AND

- The maximum duration of 72 hours per 7-day period must be complied with on average over the duration of the reference period set out in the convention or agreement (Article 7 of the aforementioned decree).

II. Weekly rest period

Article L. 5544-18 of the Transport Code allows for an exemption from the weekly rest period. This exemption may be used as a postponement.

For seafarers and for employees who are not seafarers covered by Article L. 5541-1-1 of the Transport Code, the weekly rest period may be postponed for up to 6 weeks and, where a collective agreement provides for it, this postponement may be as long as the duration of embarkation but may not exceed 6 months (Article 1st of Decree No. 2007-1843 of 26 December 2007).

I. Foreign ships subject to the host State system

Any French or foreign shipowner, or his representative, with a ship falling within the scope of the host State system must make a prior declaration of activity. This declaration is made in French, by electronic transmission via the simplified online procedure website, at least 72 hours before the start of the activity via the following link :

<https://www.demarches-simplifiees.fr/commencer/declaration-etat-d-accueil-navires-pavil-etranger>

Each activity requires a declaration and all the vessels concerned are included in the same declaration (for more than 4 vessels, the shipowner fills in a second declaration).

In addition to the form filled in online, the declaration includes the following attachments which provide information on the minimum safe manning levels, the number and nationality of all persons employed on board and their conditions of employment, remuneration and social protection:

- for each ship, a copy of the document specifying the minimum safe manning levels, issued under the SOLAS Convention by or on behalf of the administration of the flag State. Failing this, a manning decision referred to pursuant to Article R. 5561-3 of the Transport Code must be provided;
- for ships over 500 gt, a copy of the maritime labour certificate, Parts I and II of the declaration of maritime labour compliance drawn up in application of the Maritime Labour Convention, 2006, of the International Labour Organization and the inspection report that enabled establishment of the maritime labour certificate;
- for each ship, a copy of the list of all persons employed on board on the first day of the declared activity;
- a copy in French of the standard employment contracts for seamen and seafarers other than seamen;
- a copy in the French language of the different types of pay slips issued to the employees employed on board.

II. French ships subject to the host State system

French vessels falling within the scope of the host State system that have a fitting out permit are exempt from the prior declaration of activity (Article R. 5232-9 of the Transport Code). They may be subject to checks to ensure that the social conditions applicable in the host State are complied with.

Secondment regime

The provisions relating to secondment are not applicable to employees working on board ships performing activities in French waters, pursuant to Article L. 5541-3 of the Transport Code. No declaration of secondment is therefore required for these employees. Only the prior declaration of activity related to the "host State" system is required.

Employees working on the offshore MRE platforms themselves do not fall within the scope of the host State and may therefore be subject to secondment provisions.

Shipowners of vessels subject to the host State system may be subject to inspection to ensure that the host State's social conditions are met.

1) Competent inspecting officers

The establishment of infringements of the host State's provisions falls within the dual competence of:

- Labour inspectors: labour inspectors and supervisors;
- Maritime affairs inspecting officers: maritime affairs administrators and inspectors, DDTM/DML officers including agents providing "professional navigation / seafarer" services in charge of inspection missions, vessel safety and occupational risk prevention inspectors, sea and coastal delegates, sworn maritime affairs officers.

The inspecting officers of labour and maritime affairs inspection agencies are competent to check compliance with the host State regulations whatever the flag of the vessel concerned.

2) Documents to be made available to inspecting officers

The following documents must be submitted by the shipowner to the inspecting officers on request :

1. the vessel's crew list;
2. the maritime labour certificate, the declaration of maritime labour conformity and the inspection reports drawn up by or on behalf of the flag State for the implementation of the provisions of Title V of the Maritime Labour Convention (2006) of the International Labour Organisation, where that Convention is in force for the flag State;
3. the document specifying the minimum safe manning, issued pursuant to the SOLAS Convention, by the flag State administration or on its behalf or, failing that, the Minimum Safe Manning sheet issued by the French administration (see sheet 2);
4. certificates of medical fitness;
5. required certificates and evidence of formal qualifications (STCW qualifications);
6. copies of employment contracts for seafarers and employment contracts for on-board employees;
7. the record of daily hours of work or rest;
8. pay slips, or documents in lieu thereof, for seafarers and non-seafarers employed on board, including a copy of the individual document indicating the compensatory allowance, if any, received by the person concerned;
9. where applicable, residence permits and work authorisations;
10. collective and other agreements applicable to seafarers (the parts that justify compliance with the host State's social conditions shall be translated into French);
11. any proof of affiliation to a social security scheme of one of the Member States of the European Union or of a State party to the Agreement on the European Economic Area, in which it can be verified that said scheme has mandatory coverage including health risks (covering sickness, invalidity, accidents at work and occupational disease), maternity and family risks, employment risks (covering unemployment) and old-age risks;
12. a copy, in French, of the standard employment contracts for crew members and seafarers other than crew members;
13. an example, in French, of the different types of pay slips issued to on-board employees.

SHEET 7: Criminal and administrative sanctions

In the event of non-compliance identified during an inspection, criminal or administrative sanctions are applicable to the shipowner, captain, employer, or person acting as a recruiter of seafarers and failing to comply with the provisions laid down in the host State.

I – Criminal sanctions

Failure to declare their activity or incomplete declaration

Failure by the shipowner to make the declaration of activity or failure to make a complete declaration shall be punished by the fine laid down for fifth class offences.

Failure to present documents to inspecting officers

Failure to present the requested documents to inspecting officers or failure to present them in French is punishable by the fine laid down for fifth class offences.

Obstruction

Obstructing the fulfilment of the duties of a labour inspector or labour inspector is punishable by one year's imprisonment and a fine of €37,500.

Employment contract irregularity

A fine of €3,750 shall be imposed on shipowners who recruit seafarers:

- without having drawn up a written employment contract;
- by having concluded an employment contract which does not include certain information (see Sheet No. 5, Social conditions in the host State) or which includes such information in a deliberately inaccurate manner.

A repeat offence is punishable by six months' imprisonment and a fine of €7,500.

Ignorance of the obligation to benefit from social protection

A fine of €3,750 shall be imposed on shipowners who fail to comply with the obligation to provide seafarers with a social protection scheme of one of the Member States of the European Union or of a State party to the European Economic Area with mandatory coverage of health, maternity-family, employment and old-age risks.

Infringements give rise to as many fines as there are seafarers concerned.

Irregularities in salary payments

The fine is imposed as many times as there are employees concerned.

The following acts are punishable by the fine laid down for fifth class offences for the shipowner:

- to pay wages lower than the growth-indexed minimum wage provided for by articles L.3231-1 to L.3231-12 of the Labour Code ;

- to pay wages lower than the minimum monthly wage provided for in Article L.3232-1 of the Labour Code.

In the event of a repeat offence by a natural person within one year of the expiry or limitation period of the previous penalty, the maximum fine incurred is increased to 3,000 euros.

In the event of a repeat offence by a legal entity already convicted and for which they may be held accountable, within one year of the expiry or limitation period of the previous sentence, the maximum applicable fine rate is ten times that applicable to natural persons.

In the event of several offences leading to repeat offences, the fine is applied as many times as new offences are recorded.

Non-application of collective conventions or agreements

The fine is imposed as many times as there are employees concerned.

The following acts are punishable by the fine laid down for fourth class offences for the shipowner:

- to pay wages lower than those set down in the collective agreement or the extended collective labour agreement applicable to ships flying the French flag carrying out the same activity ;
- to disregard agreement stipulations relating to discretionary earnings provided for in the collective agreement or extended collective labour agreement applicable to ships flying the French flag carrying out the same activity.

Ignorance of the conditions for exercising the profession of seaman or non-seaman seafarer

The fine is imposed as many times as there are seafarers concerned.

A shipowner employing seaman or non-seaman seafarers who do not have the following necessary qualifications shall be punished by the fine prescribed for fifth class offences:

- valid certificates of medical fitness;
- valid certificates and evidence of training in accordance with the requirements of the International Maritime Organization's 1978 International Convention on Standards of Training, Certification and Watchkeeping for Seafarers and the International Labour Organization's Maritime Labour Convention.

Infringements give rise to as many fines as there are seafarers concerned.

Irregularities in the rules concerning the reporting of accidents occurring on board

The failure of the captain to promptly report, in French via electronic transmission, any accident occurring on board, of which the captain has become aware, to the departmental director of territories and the sea with whom the activity has been declared, is punishable by the fine provided for fifth class offences.

II – Administrative sanctions

Irregularities in the presentation of documents to inspecting officers

Failure to present the requested documents to the inspecting officers, or not presenting them in French, is punishable by a warning or a fine of up to €4,000.

The fine is applied as many times as there are workers concerned and instances of non-compliance detected.

In the event of a repeat offence, an increased fine is applied under the conditions previously indicated.

Irregularity of the employment contract

Failure to have had a written employment contract drawn up or conclusion of an employment contract that does not contain the mandatory information (see sheet No. 5, the social conditions of the host State) or which contains this information in a deliberately inaccurate manner, is punishable by a warning or a fine of up to €4,000.

The fine is applied as many times as there are seafarers concerned.

In the event of a repeat offence, an increased fine is applied under the conditions previously indicated.

Failure to comply with the obligation to provide social protection

Aside from the special cases mentioned in sheet No. 3, failure by the shipowner to comply with the obligation to provide seafarers with a social protection system from one of the Member States of the European Union or from a State party to the European Economic Area covering risks related to health, maternity-family, employment, and old age, shall be punished by a warning or a fine of up to €4,000.

The fine is applied as many times as there are seafarers concerned.

In the event of a repeat offence, an increased fine is applied under the conditions previously indicated.

Failure to comply with obligations regarding maternity protection, maternity leave, paternity leave, childcare leave, and leave for family events

Failure by the shipowner to comply with the legal provisions and the contractual stipulations applicable to employees, concerning maternity protection, maternity leave, paternity leave, and childcare leave, as well as leave for family events, is punishable by a warning or a fine of up to €4,000.

The fine is applied as many times as there are employees concerned.

In the event of a repeat offence, an increased fine is applied under the conditions previously indicated.

Failure to comply with the conditions of hiring-out and guarantees owed to employees by companies engaged in temporary work activities

Failure by companies engaged in temporary work activities to comply with the legal provisions and contractual stipulations concerning the conditions of hiring-out and guarantees owed to employees is punishable by a warning or a fine of up to €4,000.

The fine is applied as many times as there are employees concerned.

In the event of a repeat offence, an increased fine is applied under the conditions previously indicated.

Failure to comply with working hours, compensatory rest periods, public holidays, and paid annual leave

Failure by the shipowner to comply with the legal provisions and contractual stipulations concerning working hours, compensatory rest periods, public holidays, and paid annual leave, is punishable by a warning or a fine of up to €4,000.

The fine is applied as many times as there are employees concerned.

In the event of a repeat offence, an increased fine is applied under the conditions previously indicated.

Failure to comply with working hours and night work for young workers

Failure by the shipowner to comply with the legal provisions and contractual stipulations relating to working hours and night work for young workers is punishable by a warning or a fine of up to €4,000.

The fine is applied as many times as there are employees concerned.

In the event of a repeat offence, an increased fine is applied under the conditions previously indicated.

Failure to comply with rules concerning health and safety at work, minimum age for admission to work, and employment of children

Failure by the shipowner to comply with the legal provisions and contractual stipulations concerning the rules relating to health and safety at work, the minimum age for admission to work, and the employment of children, is punishable by a warning or a fine of up to €4,000.

The fine is applied as many times as there are employees concerned.

In the event of a repeat offence, an increased fine is applied under the conditions previously indicated.

Irregularities in salary payments

Where the shipowner pays:

- salaries lower than the statutory minimum wage (SMIC) provided for in Articles L.3231-1 to L.3231-12 of the Labour Code;
- wages lower than those set in the collective agreement or the extended collective agreement applicable to French-flagged vessels carrying out the same activity;

this is punishable by a warning or a fine of up to €4,000.

The fine is applied as many times as there are seafarers concerned.

In the event of a repeat offence, an increased fine is applied under the conditions previously indicated.

Irregularities in the rules concerning the reporting of accidents occurring on board

Failure by the shipowner, employer, or any of their agents to report any accident that occurred on board, and of which the captain became aware, to the departmental director of land and sea of the first French port reached by the ship after the accident occurred is punishable by a warning or a fine of up to €4,000.

The fine is applied as many times as there are workers concerned.

In the event of a repeat offence, an increased fine is applied under the conditions previously indicated.

Irregularities concerning passenger safety

Failure to comply with the rules regarding personnel designated to assist passengers in emergency situations in accordance with the provisions of Article 19 of Directive (EU) 2022/993 of the European Parliament and of the Council of 8 June 2022 on the minimum level of training of seafarers is punishable by a warning or a fine of up to €4,000.

In the event of a repeat offence, an increased fine is applied under the conditions previously indicated.

For all staff on board ships flying foreign flags, a stay in French territorial waters is not equivalent to a stay on French territory.

I. Citizens who are nationals of the European Economic Area or Switzerland

As a citizen of a country in the European Economic Area or Switzerland, no residence permit is required to stay in France (particularly for going ashore and transit).

II. Citizens who are not nationals of the European Economic Area or Switzerland

For nationals from outside the European Economic Area or Switzerland, the rules applicable are different between seafarer staff and non-seafarer staff.

As regards seafarers who hold a seafarers' identity document or any other equivalent professional document attesting to their status as seafarers, when on land they are not considered as if they were staying on French territory but "going ashore". This going ashore may take place within the zone determined by prefectural decree.

However, if a journey is made to renew crews (ship/aircraft for example), a transit visa is then required.

As regards non-seafarer staff or seafarers who do not hold a seafarer identity document or any other equivalent professional document attesting to their status as seafarers, they will have to have a short-stay visa to go ashore or transit.

Whether or not a Carte BTP is legally required depends on two cumulative criteria:

- The work carried out must correspond to construction or civil engineering operations included in the scope of the Carte BTP;
- The workers concerned must correspond to one of the categories of employees concerned by the card:
 - Employees on permanent contracts or fixed-term contracts with a company established in France;
 - Temporary staff appointed by a temporary employment agency established in France;
 - Employees or temporary agency workers posted by an employer or a temporary employment agency established abroad

Concerning the application of these criteria to offshore wind turbine construction sites:

- The criterion relating to the nature of the work is likely to be satisfied: whether this concerns the preliminary operations (dredging in particular) or the assembly of the platform or the wind turbines themselves, such operations can be compared to construction or civil engineering work, as is already the case for "onshore" wind turbine construction sites.

On the other hand, with regard to the criterion relating to the status of the workers concerned, a distinction must be made between:

- Employees employed by a French company:

→ these employees are affected by the requirement to hold the Carte BTP (construction ID card), regardless of their company's primary activity or the collective agreement it applies.

- Employees employed by a foreign company carrying out work on land and/or from the offshore platform:

→ if these employees are employed by a company established abroad and carry out these operations in the context of service provision on behalf of a French or foreign contractor, they normally fall under the posting scheme. In such cases, the employer is required to make a posting declaration and then to apply for a Carte BTP for each employee.

- Employees (seafarers or not) working on board ships and employed by a company established abroad:

→ These employees do not fall under the legal posting scheme (Article 1.2 of Directive 96/71/EC, transposed into Article L. 5541-3 of the Transport Code). Consequently, the Carte BTP system, which in the case of foreign companies is intended only for posted employees and temporary agency workers, is not applicable to these workers.

APPENDIX : Qualifications of personnel working in the field of MRE on board French-flagged vessels

SEAFARERS

Any person, whether employed or not, exercising a professional activity on board a vessel

SEAMEN

Staff assigned to the operation of the ship, i.e. the professional activities relating to the operation, running, maintenance and the activities necessary to ensure all the ship's functions

SEAFARERS OTHER THAN SEAMEN

Staff on board mining and exploration vessels preparing or serving meals to persons employed in activities related to offshore works and installations

Non-seamen staff not falling under the

1

If more than 45 continuous or non-continuous days on board in any period of 6 consecutive months

NON-SEAFARERS

1

- Workers, technicians or engineers on board ships assigned to exploration or mining activities related to offshore works or installations
- Interpreters, journalists, photographers
- Staff providing non-maritime training

Non-seamen staff not falling under the

1

If $\leq$ than 45 continuous or non-continuous days on board in any period of 6 consecutive months

Employees working off-ship on marine renewable energy production facilities