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REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

on the implementation and application of Articles 4 and 5 of Directive (EU) 2015/1794 of the European Parliament and of the Council of 6 October 2015 amending Directives 2008/94/EC, 2009/38/EC and 2002/14/EC of the European Parliament and of the Council and Council Directives 98/59/EC and 2001/23/EC, as regards seafarers

1. Introduction

This report is about the implementation and application of two specific provisions of Directive (EU) 2015/1794[1] ('the Directive') that bring seafarers[2] into the scope of Directive 98/59/EC[3] on collective redundancies (the 'Collective Redundancies Directive') and of Directive 2001/23/EC[4] on transfers of undertakings, businesses or parts of undertakings or businesses (the 'Transfer of Undertakings Directive').

The Directive brings seafarers, who were previously excluded, into the scope of five labour law directives[5]. According to Article 7 of the Directive, the Commission, after consulting Member States and social partners at EU level, is to submit to the European Parliament and to the Council a report specifically about the implementation and application of Article 4 (amendments to the Collective Redundancies Directive) and Article 5 (amendments to the Transfer of Undertakings Directive).

The report is principally based on information provided by Member States and sectoral social partners at EU level[6] in a questionnaire on the implementation and practical application of the Directive. To complete the picture, this information is complemented, where necessary, by information from expert analyses of the conformity of national provisions with the Directive and by the Commission's own investigations.

1.1 Background and context

Over the years, the EU has adopted a substantial number of directives in the field of labour law. These essentially aim to ensure that the creation and completion of the single market does not lead to lower labour standards or distortions in competition and to improve living and working conditions in the EU. These directives are generally applicable to all sectors of activity and all categories of workers,

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1 Directive (EU) 2015/1794 of the European Parliament and of the Council of 6 October 2015 amending Directives 2008/94/EC, 2009/38/EC and 2002/14/EC of the European Parliament and of the Council, and Council Directives 98/59/EC and 2001/23/EC, as regards seafarers (OJ L 263, 8.10.2015, p. 1).

2 This report uses the term 'seafarers' to refer to the previous exclusion from the scope of the Directives, i.e. of 'crews of seagoing vessels' from the Collective Redundancies Directive and of 'seagoing vessels' from the Transfer of Undertakings Directives. It covers staff on board of vessels of both the merchant navy and fisheries. When it is necessary to distinguish between these two sectors, a specific reference to the sector in question is made.

3 Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies (OJ L 225, 12.8.1998, p. 16).

4 Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses (OJ L 82, 22.3.2001, p. 16).

5 In addition to the Collective Redundancies Directive and the Transfer of Undertakings Directive:
- Directive 2008/94/EC of the European Parliament and of the Council of 22 October 2008 on the protection of employees in the event of the insolvency of their employer (OJ L 283, 28.10.2008, p. 36–42);
- Directive 2009/38/EC of the European Parliament and of the Council of 6 May 2009 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (Recast) (OJ L 122, 16.5.2009, p. 28);
- Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community (OJ L 80, 23.3.2002, p. 29).

6 Questionnaire for management sent to the European Community Shipowner's Association (ECSA) and Europêche; questionnaire for labour sent to the European Transport Workers' Federation (ETF).

but different types of seafarers[7] were excluded or could be excluded by Member States from the scope of several of them. They were specifically excluded from the five directives referred to above. They were therefore not granted the same protection as onshore workers in relation to insolvency, collective redundancies, and transfers of undertakings and did not enjoy the same rights to set up European Works Councils or to information from and consultation by the employer.

Directive 2015/1794 was adopted on 6 October 2015. It aims to improve the level of protection of seafarers and to harmonise their social rights and working conditions, thus improving the attractiveness of the profession and ensuring a level playing field in the sector. It ends the previous above-mentioned exclusion of seafarers. The Directive also aims to: (i) ensure that the financial and administrative burden on ship-operating companies remains proportionate to the improvements to workers' rights; (ii) safeguard the objective of increasing the employment of seafarers in the EU; and (iii) reduce the risk of flagging out (where vessels are moved from the national registry to another state's to avoid costs and restrictions). It takes account of the specific nature of the seafaring profession and provides for changes in the characteristics of the sector, such as the frequent sale of vessels and the sale of companies operating only one vessel.

2. Implementation of Articles 4 and 5

Member States had to transpose the Directive by 10 October 2017[8], and all Member States reported transposition measures, including in relation to Articles 4 and 5[9].

2.1 Content and objective of Article 4

Article 4 of the Directive amends the Collective Redundancies Directive. That Directive aims to protect workers in the event of collective redundancies by means of procedures on information, consultation and notification that an employer must observe. An employer who is considering collective redundancies must inform and consult workers' representatives. The goal is to explore ways to avoid collective redundancies or reduce the number of workers affected and to lessen the impact by implementing accompanying social measures. These measures may include aid for redeploying or retraining those workers made redundant. It also provides that projected collective redundancies must be notified to the competent public authority and that the dismissals cannot take effect earlier than 30 days after such a notification.

Article 4 point (1) of the Directive removes Article 1(2)(c) of the Collective Redundancies Directive. This provision set out that the Collective Redundancies Directive was not applicable to the crews of seagoing vessels although Article 5 of the Collective Redundancies Directive allows Member States to apply or adopt rules that are more favourable to employees. Therefore, before the transposition of the Directive, Member States could decide to exclude crews of seagoing vessels from the scope of the legislation transposing the Collective Redundancies Directive.

Moreover, Article 4 point (2) of the Directive inserts a new subparagraph in Article 3(1) of the Collective Redundancies Directive about the notification procedure that reads as follows:

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7 Share-fishermen from the Directive on insolvency, merchant navy crew from the Directive on European Works Councils, crews of vessels plying the high seas from the Directive on Information and Consultation, crews of seagoing vessels from the Collective Redundancies Directive, and seagoing vessels from the Transfer of Undertakings Directive.

8 Article 8(1).

9 https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32015L1794

Where the projected collective redundancy concerns members of the crew of a seagoing vessel, the employer shall notify the competent authority of the State of the flag which the vessel flies.

In general, the notification procedure under Articles 3 and 4 of the Collective Redundancies Directive allows the competent authority to seek solutions to the problems that the projected redundancies may create, such as by mitigating the socio-economic effects of mass dismissals in a certain area or sector. The insertion of Article 4 point (2) of the Directive reflects the specific nature of the seafarer's profession by laying down that the notification should be made to the competent authority of the flag state. According to its proposal, the Commission considered that it was necessary as a clarification because of the potential coexistence of employment contracts under different national laws[10].

2.2 Member States' replies on the implementation of Article 4

2.2.1 Article 4 point (1): ending the exclusion

A total of 11 Member States previously excluded the crews of seagoing vessels from their national legislation on collective redundancies (BE, DK, DE, IE, EL, EE, CY, LV, LU, MT, SK[11]). All these Member States amended their national legislation to end the exclusion and bring the crews of a seagoing vessel into the scope of the system governing collective redundancies as required by Article 4 point (1) of the Directive.

There were 16 Member States that had never excluded the crews of seagoing vessels (BG, CZ, ES, FR, HR, IT, LT, HU, NL, AT, PL, PT, RO, SI, FI, SE) and therefore did not need to amend their national legislation to bring such crews within the scope of the Directive.

2.2.2. Article 4 point (2): notification to the competent authority of the flag state

Article 4 point (2) of the Directive on notifying prospective redundancies to the authority of the flag state that the vessel flies was specifically transposed by 13 Member States (BE, DE, IE, EE, EL, IT, CY, LU, HU, MT, PL, RO, SK). Of these, three transposed it verbatim (CY, HU, SK), setting out that where projected collective redundancies concern crews of seagoing vessels, the notification must be made to the competent authority of the flag state that the vessel flies.

The other 10 Member States determine which competent authority to notify in a variety of ways described below.

- Four Member States provide for notifying the authority of the flag state but limit it to vessels flying the flag of: (i) another state (EE) that is a contracting party to the European Economic Area Agreement; (ii) another EU Member State (DE); or (iii) their own Member State (BE, PL).
- Greece and Malta oblige employers to notify their own Member State's competent authority of any planned collective dismissals of crew of seagoing vessels.
- Two Member States (LU, RO) provide for additional notifications where collective redundancies concern crew of seagoing vessels. In Luxembourg, the employer must notify the authorities of the flag state in addition to the own competent national authority. In Romania,

10 COM(2013)798 final of 18.11.2013, p. 10 (Detailed explanation of the provisions on Article 4).

11 The abbreviations for Member States in this report are: BE (Belgium), BG (Bulgaria), CZ (Czech Republic), DK (Denmark), DE (Germany), EE (Estonia), IE (Ireland), EL (Greece), ES (Spain), FR (France), HR (Croatia), IT (Italy), CY (Cyprus), LV (Latvia), LT (Lithuania), LU (Luxembourg), HU (Hungary), MT (Malta), NL (Netherlands), AT (Austria), PL (Poland), PT (Portugal), RO (Romania), SI (Slovenia), SK (Slovakia), FI (Finland), SE (Sweden).

the notification must also be submitted to the competent authority of the vessel's flag state where the collective redundancies concern a seagoing vessel's crew members.

- Ireland distinguishes between notifying the Minister for Employment Affairs and Social Protection where the vessel flies the Irish flag or the competent authority of another state where the vessel flies the flag of that other state.
- Similarly, in Italy, the employer must notify the Italian competent authority where the projected collective redundancy concerns crew members of Italian nationality or whose employment relationship is regulated by Italian law and the competent authority of the foreign state where the crew members concerned are on a vessel flying a flag other than the Italian flag.

The remaining 14 Member States (BG, CZ, DK, ES, FR, HR, LT, LV, NL, AT, PT, SI, FI, SE) did not amend their national legislation on this point and therefore do not specify a competent authority to receive notifications when prospective collective redundancies concern the crews of seagoing vessels. The Commission understands that the existing national provisions obliging an employer to notify the competent public authority of the projected collective redundancies also apply where these redundancies concern the crews of seagoing vessels. Consequently, in these Member States, Article 4 point (2) of the Directive is transposed by stipulating that an employer must notify planned collective redundancies of seagoing vessels' crew members to the same public authority to which collective redundancies of all other workers must be notified.

2.3 Comments from social partners on the implementation of Article 4

For maritime employers, the European Community Shipowners' Association (ECSA) considers that all Member States have transposed Article 4 of the Directive in a satisfactory way. Europêche, representing employers in the fishing sector, did not provide a contribution. For social partners representing labour, the European Transport Workers' Federation (ETF) was not able to provide substantial information on the transposition in Member States due to a lack of information from its affiliates. However, the ETF criticised the transposition in the UK[12], which was a Member State at the time[13].

2.4 Content and objective of Article 5

Article 5 of the Directive amends the Transfer of Undertakings Directive. That Directive sets out the rights of employees when there is a transfer of ownership of a company in which they work as well as the obligations of the seller ('transferor') and buyer ('transferee'). It provides that the transfer of a company is not grounds for dismissal and that employees maintain their rights and obligations from an existing employment contract or relationship. Moreover, to reach an agreement, the transferor and transferee must inform and consult employee representatives in good time before the change in the business is carried out and before measures affecting employees are adopted.

Previously, Article 1(3) of the Transfer of Undertakings Directive provided that that Directive did not apply to seagoing vessels although Article 8 of the Transfer of Undertakings Directive explicitly

12 According to which the employer must give the notification 'to the competent authority of the state where the vessel is registered (instead of to the Secretary of State)'.

13 The ETF referred to the case of P&O Ferries. The company was established in the UK and notified the Cypriot authorities of collective redundancies relating to crew on their Cypriot-flagged passenger ships. In the ETF's view, this showed that the notification to the competent public authority of the vessel's flag should be additional to the duty to report redundancies to the competent public authority of the Member State from which the seafarers operate and not instead of it.

allows Member States to apply or adopt rules that are more favourable to employees. Therefore, before the transposition of the Directive, Member States could decide to exclude seagoing vessels from the scope of the legislation transposing it.

Under Article 5 of the Directive, Article 1(3) of the Transfer of Undertakings Directive is replaced by the following:

> *This Directive shall apply to a transfer of a seagoing vessel that is part of a transfer of an undertaking, business or part of an undertaking or business within the meaning of paragraphs 1 and 2, provided that the transferee is situated, or the transferred undertaking, business, or part of an undertaking or business remains, within the territorial scope of the Treaty.*
>
> *This Directive shall not apply where the object of the transfer consists exclusively of one or more seagoing vessels.*

2.5 Member States' replies on the implementation of Article 5

2.5.1. Article 5 replacing Article 1(3) first subparagraph of the Transfer of Undertakings Directive: ending the exclusion

A total of 11 Member States exempted seagoing vessels from the scope of their national rules on the transfer of undertakings before the entry into force of Article 5 of the Directive (BE, DK, EE, IE, EL, CY, LU, MT, NL, RO, FI). All of them amended their national legislation to bring seagoing vessels into the scope of their national legislation.

However, 16 Member States had already applied their legislation on the transfer of undertakings to seagoing vessels (BG, CZ, DE, ES, FR, HR, IT, LV, LT, HU, AT, PL, PT, SI, SK, SE). They therefore did not need to amend their legislation to bring it into the scope of their national legislation.

2.5.2 Article 5 replacing Article 1(3) first subparagraph of the Transfer of Undertakings Directive: territorial scope

Article 5 also permits Member States to limit the territorial scope of the application of the rules to transfers of seagoing vessels if the buyer is situated in the EU or if the transferred undertaking remains in the territorial scope of the Treaties.

A total of 13 Member States have transposed this provision, nine of them verbatim (BE, DK, IE, EL, EE, IT, LV, NL, RO). Of the other four Member States, Finland sets out that the rights and obligations from the employment relationship and the employee benefits are transferred to the new owner of the business unless the seller or buyer is established outside the EU or the European Economic Area. Luxembourg and Malta limit the territorial scope by laying down that the buyer must be situated in their Member State or that the undertaking must remain in their Member State. Cyprus limits the scope to Cypriot seagoing vessels.

The remaining 14 Member States did not limit the territorial scope.

2.5.3 Article 5 replacing Article 1(3) second subparagraph of the Transfer of Undertakings Directive: exclusion of vessel-only transfers

The second sentence of Article 5 excludes transfers only involving one or more seagoing vessels.

A total of 13 Member States transposed this provision and thus exclude vessel-only transfers (BE, DK, IE, EL, EE, IT, CY, LV, LU, MT, NL, PT, RO). However, 14 Member States (BG, CZ, DE, ES,

FR, HR, LT, HU, AT, PL, SI, SK, SE, FI) did not transpose it and thus do not exclude vessel-only transfers from the legislation transposing the Transfer of Undertakings Directive.

2.6 Comments from the social partners on the implementation of Article 5

For maritime employers, the ECSA considers that all Member States have transposed Article 5 of the Directive in a satisfactory way. Europêche, representing employers in the fishing sector, did not provide a contribution. For the social partners representing labour, the ETF did not provide substantial information on the transposition in Member States due to a lack of information from its affiliates.

3. Application of Articles 4 and 5

In addition to information about their implementation measures, Member States and social partners were also asked to provide information on the application of the national rules transposing Articles 4 and 5.

3.1. Member States' replies

3.1.1. Notifications of projected collective redundancies

Only five Member States reported that their competent authorities were notified of projected collective redundancies of seagoing vessels' crew members (FR, CY, LV, NL, FI). The other Member States were not aware of such cases (BE, BG, CZ, DK, DE, EE, IE, EL, ES, IT, LT, LU, HU, MT, AT, PL, PT, RO, SI, SK), could not distinguish between the professions of the employees whose project redundancies were notified (HR) or did not provide any information (SE).

In France, the competent national authority was notified six times between 2015 and 2020.

Cyprus reported that it was aware of one notification concerning P&O Ferries, established in the UK. The company had dismissed some 800 seafarers, including on four passenger ships flying the Cypriot flag.

Latvia reported one notification in 2022 affecting 125 employees.

The Netherlands replied that in 2020 one notification was registered concerning an employer based there affecting 63 seafarers. In 2021, a second notification concerned seagoing vessels flying a Dutch flag, although the employer was not based in the Netherlands, and affected 28 seafarers.

Finland is aware of notifications concerning seagoing vessels' crew members but did not have access to precise figures or other information. Furthermore, Finland explained that the national provisions on collective redundancies already apply when the employer plans the dismissal of one worker.

No Member State reported a case in which their competent national authority received notifications of projected collective redundancies concerning crew members of a seagoing vessel flying the flag of another Member State.

3.1.2. Transfers of undertakings involving seagoing vessels

Only two Member States were aware of transfers of seagoing vessels that were part of a transfer under the Directive (BE, FI). Belgium stated that social partners were aware of one case where several vessels of one company were transferred to another company, while Finland did not provide any further information. Two Member States did not provide information on the matter (FR, SE), Italy

reported that there had been no such transfer, and the remaining Member States were not aware of any cases.

3.1.3. Legal proceedings

Member States did not report any legal proceedings in its national courts related to the national provisions transposing Articles 4 and 5 of the Directive.

3.1.4. Impact of the Directive

The Commission's reporting obligation under Article 7 of the Directive was introduced, in particular, to assess the impact of the new Directive on two issues: (i) flagging out vessels to other states; and (ii) the level of employment of EU seafarers. Changes to the fleet under the flag of a Member State can give an accurate view of the 'flagging out' phenomenon. The level of employment in a specific sector is more difficult to assess, but trends in the number of people working as seafarers makes it possible to draw some provisional conclusions on this issue.

3.1.4.1. Impact on the number of vessels flying the flag of a Member State

Overall, Member States' replies do not show that implementation of Articles 4 and 5 of the Directive were detrimental to the number of vessels flying the flag of Member States. This suggests that the entry into force of these two articles and their transposition by Member States did not lead to flagging out.

Of the Member States that amended their national laws to bring crews of seagoing vessels into the scope of their legislation transposing the Collective Redundancies Directive, only five noted a decrease in the number of seagoing vessels flying their flag (BE, EE, EL, IT, PL). In addition to these five Member States, the Netherlands also reported a decrease after they had brought seagoing vessels into the scope of its legislation transposing the Transfer of Undertakings Directive.

Some Member States provided more detailed information on the decrease. Belgium reported that the number of merchant vessels registered there decreased very slightly from 238 to 237 in more than 5 years between 2016 and 2022 but that the gross tonnage increased from 7 750 000 GT to 9 780 000 GT. The country's number of fishing vessels decreased, but it did not specify by how much. In Italy, the number of merchant navy vessels over 100 GT decreased by 8% between 2017 and 2020 (from 1 448 to 1 334). Poland reported that the number of vessels and gross tonnage decreased between 2015 and 2021 from 151 to 134 vessels and from around 80 000 to 69 000 GT. In the Netherlands, the number of vessels decreased from 1 233 to 1 212 between 2014 and 2021. Nevertheless, these Member States assume that this trend is not linked to the entry into force of the Directive but is due to: (i) cheaper registration of vessels under other flags (PL); (ii) better conditions when flying the flag of another state (EE); (iii) flagging out (NL); and (iv) many of the protections provided for in the Directive were already applicable to seagoing vessels' crew members before the Directive (IT).

In contrast, Ireland and Portugal observed an increase in the number of seagoing vessels flying their flags. They did not provide detailed data, and Ireland did not provide any possible reasons for the increase. Portugal does not believe this increase is due to the entry into force of the Directive: it

assumes that it is linked to the 2015 simplifications in the legal regime of the International Shipping Register of Madeira along with existing tax reductions.

Seven Member States that brought crews of seagoing vessels into the scope of their legislation transposing the Collective Redundancies Directive did not report any change (DE, CY, MT, LV, LU, HU) or any significant change (HR) in the number of vessels flying their flags. These Member States, along with Lithuania, indicated no change in connection with including seagoing vessels in the scope of the legislation transposing the Transfer of Undertakings Directive.

Three Member States reported they did not have any data related to extending the rules on collective redundancies to crews of seagoing vessels (BG, DK, LT). Four Member States also reported having no data concerning extending legislation on the transfer of undertakings to include seagoing vessels (BG, DK, RO, SK). Those reporting no impact were seven Member States who had not previously excluded seafarers from national laws transposing the Collective Redundancies Directive (ES, FR, NL, RO, SI, SE) and five Member States who had not previously excluded seagoing vessels from the national law transposing the Transfer of Undertakings Directive (ES, FR, SI, SE).

Finland reported that there were no significant changes as the national law on collective redundancies already applied to seafarers before and as seafarers had already partial rights in connection with the transfer of undertakings. Two Member States stated that they were not flag states for vessels falling under Articles 4 and 5 of the Directive (CZ, AT). Slovakia reported that it was not a flag state for vessels falling under Article 4 of the Directive.

3.1.4.2. Impact on the number of seafarers

Overall, Member States' replies also show that the implementation of Articles 4 and 5 of the Directive were not detrimental to the number of seafarers. This suggests that the entry into force of Articles 4 and 5 of the Directive and the related national provisions did not have an impact on the level of employment of seafarers on vessels registered in Member States.

Only two Member States observed a decrease in the number of seafarers (EE, EL). Greece reported a decrease in seafarers employed on vessels flying the Greek flag since it had transposed the Directive in 2018, but it did not provide any specific figures. Estonia reported a decrease in the number of merchant navy crew members and a slight decrease in the number of fishers but also did not provide specific figures. Both countries did not link the decrease to the entry into force of the Directive. Estonia explained that the working assumption is that there are other reasons at play, such as the COVID-19 pandemic and the reduction in the number of voyages taken.

In Belgium, social security data showed a slight decrease in employment in the merchant navy sector[14] while the number of fishers remained stable. In connection with having included seafarers in the scope of national law transposing the Directive on collective redundancies, Latvia reported a decrease in the number of seafarers with merchant fleet qualifications and an increase in the number of seafarers with qualifications to be part of a fishing vessel's crew. Both countries could not link this development to the entry into force of the Directive. Latvia presumed the main drivers were

[14] On the other hand, data from the joint committee for the merchant navy sector showed a strong increase in employment, explained, however, by the recent inclusion of the dredging and off-shore sectors into the merchant navy sector.

competition with Asian seafarers, opportunities to redeploy ashore, and, specifically for fishers, changes to qualification requirements for boat captains.

Two Member States (IE, PT) observed an increase in the number of seafarers. They did not provide any detailed data, but neither link it to the entry into force of the Directive. For Ireland, the increase is the result of the increase in the number of merchant ships. Portugal assumes that, like the increase in the number of vessels, the increase in the number of seafarers is also linked to the 2015 simplifications in the legal regime of the International Shipping Register of Madeira.

Three Member States did not note a significant change in the number of seafarers (HR, IT, FI). In Italy, the number of seafarers remained essentially unchanged between 2017 and 2020 (-1.4% from 26 105 to 25 744): the decrease in the number of cargo vessels had been partly offset with more staff-intensive passenger vessels, and many of the protections provided for in the Directive had already applied to seagoing vessels' crew members. The number of seafarers in Finland did not change significantly from 2017 to 2019; a decrease in the number of seafarers in 2020 was considered to be linked to the COVID-19 pandemic.

Four Member States did not report any change in the number of seafarers (CZ, HU, MT, PL). Lithuania did not report any change in connection with having included seagoing vessels in the scope of the legislation transposing the Transfer of Undertakings Directive. Czechia explained that, as there are no commercial seagoing vessels registered under the Czech flag, the unchanged number of seafarers concerns seafarers with a seaman's book issued by the Czech Maritime Authority who are employed on seagoing vessels operating under various EU and non-EU flags. Germany stated that the entry into force of Article 4 of the Directive did not have any effect on the number of seafarers.

Six Member States were unable to provide data on the impact of the Directive on the number of seafarers in connection with extending the rules on collective redundancies to crews of seagoing vessels (BG, DK, CY, LT, LU, RO). These Member States, along with Latvia and Slovakia, reported that they did not have data on the number of seafarers in connection with extending legislation on the transfer of undertakings. On the same topic, the Netherlands explained that, while it had 2021 data on staff on Dutch-flagged vessels (4 600 Dutch staff, 16 000 foreign staff), it had no reliable earlier data for comparison.

Five Member States (ES, FR, NL, SI, SE) had not previously excluded seafarers from national laws transposing the Collective Redundancies Directive and therefore did not report any impact on the number of seafarers. Similarly, four Member States (ES, FR, SI, SE) that had not previously excluded seafarers from their national laws transposing the Transfer of Undertakings Directive reported no impact. Austria stated that it is not a flag state for vessels falling under Articles 4 and 5 of the Directive, and Slovakia reported that it is not a flag state for vessels falling under Article 4 of the Directive.

3.2 Comments from social partners

For maritime employers, the ECSA considered that Member States applied and enforced Articles 4 and 5 of the Directive satisfactorily. According to the ECSA, both the number of vessels flying the flag of a Member State and the number of seafarers were stable. Europêche, representing employers in the fishing sector, did not make a contribution.

For the social partners representing labour, the ETF could not provide substantial information on the application of Article 5 of the Directive concerning transfers of undertakings due to the lack of information from its affiliates. On the application of Article 4 of the Directive concerning collective redundancies, the ETF stated that it did not receive information from all its affiliates and that those affiliates that did reply did not register a change in the number of vessels flying the flag of a Member States or in the number of seafarers.

4. Conclusions

All Member States have reported transposition measures for the amendments to the Collective Redundancies Directive that includes the crew of seagoing vessels in its scope and that include seagoing vessels in the scope of the Transfer of Undertakings Directive. Not all of them passed new laws or amended existing acts as this was not required in those Member States that had not already exempted (the crew of) seagoing vessels from the scope of application of their national rules in the past. This has improved the rights of seafarers who previously lacked the protection afforded by these directives.

Article 4 point (2) of the Directive obliging employers to notify planned collective redundancies to the competent authority of the vessel's flag state has been transposed by most Member States as notification to their own competent authority. As a result, the authority will be the same as the one to which collective redundancies of all other workers have to be notified. Only a few Member States transposed it as an obligation to notify the flag state.

Experience with the practical application of the amendments to the Collective Redundancies Directive and the Transfer of Undertakings Directive is very limited. Only five Member States reported between one and six notifications of collective redundancies involving the crew of a seagoing vessel, and two Member States reported one or two transfers of seagoing vessels. No Member State reported legal proceedings.

Concerns that the amendments would harm the maritime sector by causing flagging out and loss of jobs have proven to be unfounded. In connection with having brought crew of seagoing vessels into the scope of the Collective Redundancies Directive and seagoing vessels into the scope of the Transfer of Undertakings Directive, most Member States and the sectoral social partners representing management and labour did not report any change in the number of vessels flying the flag of a Member State or in the number of seafarers. Where Member States reported a decrease or an increase in the number of such vessels or the number of seafarers, they stated that these developments were not linked to including (crew of) seagoing vessels in the scope of these two directives.