

DECISION No. 8

**Interpretative declaration on Article 1 n) of the Rhine Agreement
and Article 1 b) of the Derogation Agreement**

The Administrative Centre of Social Security for Rhine Boatmen,

Having regard to Article 72 (1) a) of the Agreement concerning the social security of Rhine boatmen of 30 November 1979 (referred to hereinafter as "the Rhine Agreement"), according to which the Administrative Centre is responsible for dealing with any questions on the application of the provisions of the Agreement or of its Arrangement,

Noting that certain difficulties of interpretation regarding the definition of the notions of "auxiliary worker" used in Articles 1 n)¹ and 11 (4) of the Rhine Agreement and of "persons engaged temporarily in order to supplement or reinforce the crew" used in Article 1 b) of the Agreement on the determination of the legislation applicable to Rhine boatmen, concluded on the basis of Article 16 (1) of Regulation No. 883/2004 (EC) (referred to hereinafter as the "Derogation Agreement"²,

Whereas the designation "auxiliary worker" within the meaning of Article 1 n) of the Rhine Agreement applies to a specific category of persons working on board vessels on the Rhine, including for example those persons who join a vessel during the journey in order to steer on certain sectors where there are difficulties or to carry out manoeuvres in ports (persons generally designated as "pilots"), to carry out salvage operations in the event of an incident, or to carry out repairs on board on an occasional basis; whereas these persons are generally domiciled in the State on whose territory they work,

Whereas the Derogation Agreement does not contain any specific provision covering this category of person (auxiliary workers), their situation is therefore governed by the relevant provisions of Regulation No. 883/2004 (EC) or by Article 11 (4) of the Rhine Agreement³,

Whereas those "persons engaged temporarily to supplement or reinforce the crew" referred to in Article 1 b) of the Derogation Agreement are not "auxiliary workers" within the meaning of the preceding recitals; whereas this term is intended to cover those persons active on board a vessel for a short period of time and who form part of the crew during the time they spend on board. These persons are considered to be Rhine boatmen, and their situation is governed by the provisions of the Derogation Agreement,

¹ Article 1 n) of the Rhine Agreement: "The term 'auxiliary worker' designates a Rhine boatman engaged temporarily in order to supplement or reinforce the crew in compliance with the Rhine Regulations or to carry out manoeuvres in ports."

² Article 1 b) of the Derogation Agreement: "The term 'Rhine boatmen' is deemed also to include those persons who are engaged temporarily in order to supplement or reinforce the crew in compliance with the Rhine Regulations."

³ Regulation No. 1231/2010 (EU) does not apply in Switzerland.

Deliberating in accordance with the conditions laid down in Article 72 (2) a) of the Rhine Agreement,
is unanimously agreed on the following interpretation:

- Within the meaning of Articles 1 n) and 11 (4) of the Rhine Agreement, the term “auxiliary worker” should be interpreted as meaning those persons carrying out a specific occasional task on board (e.g. pilots, repair specialists) who are not considered as forming part of the crew.

The inclusion in the scheme of such auxiliary workers is governed by the appropriate provisions of Regulation (EC) No. 883/2004 or by Article 11 (4) of the Rhine Agreement.

- Within the meaning of Article 1 b) of the Derogation Agreement, the term “temporary worker” should be interpreted as meaning those persons who work briefly on board a vessel and are considered to be part of the crew while they are on board. These persons are considered to be Rhine boatmen and are not “auxiliary workers” as defined above.

The inclusion in the scheme of such persons, in the capacity of Rhine boatmen, is governed by the provisions of the Derogation Agreement.

Strasbourg, 3 October 2013

Secretary
C. TOURNAYE

Chair
S. CUENI