

A large ferry boat is shown on the water at sunset. The boat is illuminated by the golden light of the setting sun, which is reflected on the water's surface. The background features a range of mountains under a hazy sky. The text "Legal basis for data exchange" is overlaid on the right side of the image.

Legal basis for data exchange



List of abbreviations

- AL organisation: organisation that determines applicable social security legislation
- Issuing organisation: organisation issuing the Rhine Certificate (RC) and the Certificat d'Exploitant (CE)
- GDPR: General Data Protection Regulation
- DPIA: Data Protection Impact Assessment
- TEU: Treaty on the European Union
- ENI: European Number of Identification
- SVB: Dutch AL organisation
- KIWA: Dutch issuing organization, mandated by ILT
- ILT: Inspection of Ministry of Infrastructure and Water Management of the Netherlands



Content

- Background: the relevance for improving data sharing
- Data privacy in general
- Legal basis for data exchange between issuing organisations (international)
- Legal basis for data exchange between AL organisations (international)
- Legal basis for data exchange between the issuing organisation and the AL organisation (national)
- DPIA
- Data exchange in the Netherlands



Background: the relevance for improving data sharing

Keeping registers authentic and up to date

- Correct determination of applicable legislation
 - Payment of contribution in correct Member State
 - Financial consequences rhineboatmen
 - Undermines support
 - Difficulties competent institutions



Data privacy in general

- What is data privacy all about?
- Lawful base
 - Public task
- Accountability under GDPR
 - DPIA

AANR and/or CE
issuing authority

Flow B

Body responsible for
determining the applicable
social security legislation

Information to be provided :
Note that an AANR has been issued for a boat whose operator is in country Y!
(particularly if the operator was previously in the same country as the owner).

Communication vector : ?
Legal basis : ?



Information to be provided :
Please note that an EC application
has been submitted for a boat
registered in country X!

Communication vector: secure
email?

Legal basis: Article 8 of the
Regulation implementing
Regulation (EEC) No 2919/85
?



Information to be provided :
Please note that a CE has been
withdrawn for a boat registered in
country X!

Flow A Bis

Flow C

Information to be provided
(in the case of a risk indicator)
Please note that you are going to receive requests
for affiliation from Rhine boatmen on the basis of a
derogation agreement from operator x!
Make sure that operator x is based in your country
and has the power to make decisions, particularly
in economic and commercial terms.

Communication vector: EESSI?
Legal basis: principle of loyal
cooperation enshrined in Regulation
No 883/2004 ?



AANR and/or CE
issuing authority

Flow B Bis

Body responsible for determining
the applicable social security
legislation (via the liaison body)

Information to be provided :
If applicable, please note that the operator of vessel n°xx does not have its
registered office in country Y/ does not have control over decision-making,
particularly in economic and commercial terms.

Communication vector : ?
Legal basis : ?



Checks to be carried out (if necessary) :
Is the operator based in country Y and does it have
effective control over decision-making, particularly in
economic and commercial terms?

COUNTRY X
COUNTRY Y

Flow A



Legal basis for data exchange between issuing organisations

- Regulation 2919/85
- Article 8 par. 2 of the annex:
To ensure application of this Regulation, the competent authorities of the Contracting States shall cooperate within the framework of their national legislation and shall communicate the necessary information to one another, subject to commercial confidentiality.

AANR and/or CE
issuing authority



Body responsible for
determining the applicable
social security legislation

Information to be provided :
Note that an AANR has been issued for a boat whose operator is in country Y!
(particularly if the operator was previously in the same country as the owner).

Information to be provided :

Communication vector : ?

Legal basis : ?



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Communication vector : ?



Legal basis : ?

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Is the operator based in country Y and does it have
effective control over decision-making, particularly in
economic and commercial terms?

COUNTRY X

COUNTRY Y

FLOW A

FLOW A Bis

FLOW C

Flow B Bis



Legal basis for data exchange between AL organisations

- Article 4 TEU: sincere cooperation
- Regulation 883/2004
- Article 76 par. 4:
The institutions and persons covered by this Regulation shall have a duty of mutual information and cooperation to ensure the correct implementation of this Regulation
- Article 77 determines data protection legislation

AANR and/or CE
issuing authority



Body responsible for
determining the applicable
social security legislation

Information to be provided :
Note that an AANR has been issued for a boat whose operator is in country Y!
(particularly if the operator was previously in the same country as the owner).

Information to be provided :

Communication vector : ?

Legal basis : ?



Information to be provided
(in the case of a risk indicator)

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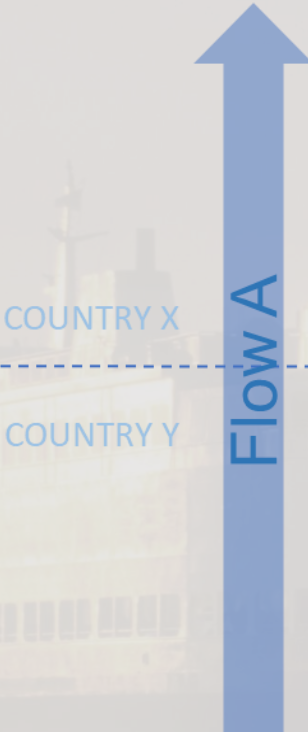
Communication vector: EESSI?

Legal basis: principle of loyal cooperation enshrined in Regulation No 883/2004 ?



Body responsible for determining
the applicable social security
legislation (via the liaison body)

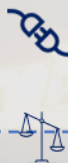
Checks to be carried out (if necessary) :
Is the operator based in country Y and does it have effective control over decision-making, particularly in economic and commercial terms?



Information to be provided :
Please note that an EC application has been submitted for a boat registered in country X!

Communication vector: secure email?

Legal basis: Article 8 of the Regulation implementing Regulation (EEC) No 2919/85 ?



Information to be provided :
Please note that a CE has been withdrawn for a boat registered in country X!



Information to be provided :
If applicable, please note that the operator of vessel n°xx does not have its registered office in country Y/ does not have control over decision-making, particularly in economic and commercial terms.

Communication vector : ?

Legal basis : ?



AANR and/or CE
issuing authority

COUNTRY X

COUNTRY Y



Background: data exchange between issuing and AL organisation

- Determination of the applicable legislation - regular process
- Suspicion of misuse/abuse
- Assessment of a risky situation
 - When the owner of the vessel is seated in a different Member State than the operator



Background: data exchange between issuing and AL organisation

Moments to share data

- Once status quo
- New cases
- Seat change



Background: data exchange between issuing and AL organisation

The organisation could then provide the following data:

- Name and ENI Rhine vessel (common denominator of all information)
- Name, address, country of shipowner (+ possible legal form of company)
- Name, address, country of operator of vessel (+ possible legal form of company)
- Date of change in operator of vessel
- The (completed) application form for the RC and any relevant documents sent along, such as the CE form and the operating agreement between the shipowner and the operator.



Legal basis for data exchange between issuing and AL organisation

- The Netherlands leading delegation data exchange CASS
- Legal basis needs to be created
- GDPR is applicable
- DPIA
- Sensitivity of the data



DPIA

- Instrument to identify privacy risks of data sharing
- Required because of article 35 GDPR
- DPIA is specifically required in case of:
 - a systematic and extensive evaluation of personal aspects relating to natural persons which is based on automated processing, including profiling, and on which decisions are based that produce legal effects concerning the natural person or similarly significantly affect the natural person;
- Key points of the DPIA form:
 - Systematic description of the envisaged processing operations
 - Assessment of the necessity and proportionality
 - Assessment of the risks
 - Mitigation of risks



Data exchange in the Netherlands

Process

- Prescan DPIA
- DPIA
- Amendment of a Dutch Ministerial Decree
- Exchange of data between issuing and AL organisation



Data exchange in the Netherlands - DPIA

Key points DPIA

- SVB and ILT are involved parties – data processing agreement
- ILT is owner of the data
- SVB is processor of the data
- Ministry of Social Affairs and Employment provides national legal basis



Data exchange in the Netherlands - DPIA

- Purpose of data exchange
 - SVB: determining applicable legislation and enforcement
 - ILT: authenticating and updating the registers
- Description of data process
 - Which personal data
 - Mitigation of risks



Thank you for your attention

Questions?