prijevod: Jasenka Težak Štefanić

CROATIAN PARLIAMENT

3142

Based on Article 88 of the Constitution of the Republic of Croatia, I hereby pass the

DECISION

ON PROMULGATING THE MARITIME CODE

I hereby promulgate the Maritime Code, adopted by the Croatian Parliament at its session on 8 December 2004.

Number: 01-081-04-3801/2
In Zagreb, on 14 December 2004

President
of the Republic of Croatia
Stjepan Mesić, signed

MARITIME CODE

Part One
GENERAL PROVISIONS

Article 1

(1) Provisions of this Code establish the maritime and submarine areas of the Republic of Croatia and determine legal relations in them, the safety of navigation in the internal waters and the territorial sea of the Republic of Croatia, protection and preservation of natural maritime resources and the maritime environment, the basic substantive legal relations pertaining to waterborne craft, contractual and other obligatory relations concerning ships, procedures concerning the registration of waterborne craft, limitations of the ship operator's liability, distrainment and security measures on ships.

(2) Unless otherwise stipulated by this Code its provisions shall apply to waterborne craft located or navigating in the internal waters and the territorial sea of the Republic of Croatia.

Article 2

(1) Unless otherwise stipulated by this Code its provisions pertaining to ships shall also apply to yachts.

(2) Provisions of this Code pertaining to ships shall also apply to other maritime craft with the exception of yachts solely when explicitly stipulated by this Code.

Article 3

Provisions of this Code shall apply to warships solely when explicitly stipulated by this Code.

Article 4

Common practice shall apply to maritime law relations not established by this Code, other regulations adopted based on this Code or other acts.

prijevod: Jasenka Težak Štefanić

Article 5

Unless otherwise stipulated by this Code, the terms used herein shall have the following meanings:

(1) *maritime navigation* is navigation carried out in the sea and on the rivers of the Adriatic river system up to the limit navigable from the side of the sea,

2) *maritime craft* is a craft intended for navigation at sea (waterborne craft) or a craft permanently moored or anchored at sea (floating facility), i.e. an object entirely or partially embedded into the seabed or positioned onto the seabed (fixed offshore facility),

3) *waterborne craft* is a maritime craft intended for navigation at sea. A waterborne craft may be a ship, warship, yacht or boat,

4) *ship, with the exception of warship*, is any waterborne craft intended for navigation at sea, exceeding 12 m in length and a gross tonnage of 15 tons, or one authorised to carry more than 12 passengers. A ship may be a passenger, cargo or technical waterborne craft, or a fishing, public or a scientific research ship,

5) *the length of a ship, yacht or boat* is the length established as such in the Technical Rules,

6) *Croatian warship* is a waterborne craft, including submarines, which is under the command of the armed forces of the Republic of Croatia, and the crew of which is military, i.e. under the authority of military discipline, which must furthermore display external recognition signs of Croatian national warships whenever it is necessary to identify this feature of the craft,

7) *foreign warship* is a waterborne craft of foreign nationality, belonging to the navy, displaying external recognition signs of a naval waterborne craft and its nationality, which is under the command of a military person, and has a military crew,

8) *passenger ship* is a mechanically propelled ship authorised to carry more than 12 passengers,

9) *fast passenger ship* is a passenger ship the maximum speed m/s of which is equal or higher than the value obtained by the formula: $3.7\ \nabla^{0,1667}$, where the displacement ∇ on the constructive water line is $Šm^3š$. Non-displacement ships the hull of which is entirely above surface due to the effect of aerodynamic forces generated by the surface effect shall not be considered as fast passenger ships. Ships whose volume of displacement is 500 $Šm^3š$ and less, the maximum speed of which is less than 20 Ščvš, and which are sailing in internal waters and the territorial sea of the Republic of Croatia shall not be considered as fast passenger ships.

10) *cargo ship* is a ship intended for the transport of cargo, with or without a mechanical propulsion,

11) *fast cargo ship* is a cargo ship the maximum speed m/s of which is equal or higher than the value obtained by the formula: $3,7\ \nabla^{0,1667}$, where ∇ displacement on the constructive water line is $Šm^3š$.

Non-displacement ships the hull of which is entirely above surface due to the effect of aerodynamic forces generated by the surface effect shall not be considered as fast cargo ships.

12) *technical waterborne craft* is a ship with or without a mechanical propulsion intended to carry out technical operations (dredger, floating crane, floating dock, rigs for the research and exploitation of the seabed, and the like),

13) *floating facility* is a maritime craft permanently moored or anchored at sea, and not intended for navigation (e.g., landing stage, floating workshop, restaurant or power plant, pontoon bridge, pontoon marina and the like),

prijevod: Jasenka Težak Štefanić

14) *fixed offshore facility* is a maritime craft entirely or partially embedded into the seafloor or positioned on the seafloor and not intended for navigation (ex. a fixed offshore facility for the research and exploitation of the seabed, a submarine pipeline and the like) with the exception of a submarine cable and traffic infrastructure objects (ex. a submarine tunnel, a bridge supported by the seafloor and the like),

15) *boat* is a waterborne craft intended for navigation at sea, which is not a ship or a yacht, and the length of which is more than 2.5 metres or the total power of its propulsion engines is greater than 5 kW.

The term *boat* does not encompass:

- vessels belonging to another maritime craft for the purpose of collecting, salvaging or conducting work,
- vessels intended exclusively for competitions,
- canoes, kayaks, gondolas and pedal boats,
- windsurfing boards and surfboards,

16) *tug or pusher* is a ship intended for towage or pushing of other waterborne craft,

17) *nuclear ship* is a ship equipped with nuclear propelling machinery,

18) *fishing vessel* is a ship with mechanic propulsion intended and equipped for catching fish and other living resources in the sea or on the seafloor, exceeding 12 m in length and a gross tonnage of 15 tons,

19) *foreign fishing vessel* is a ship of foreign nationality intended and equipped for catching fish and other living resources in the sea or on the seafloor,

20) *yacht* is a waterborne craft for sports and recreation, regardless of whether it is used for personal needs or business, exceeding 12 m in length and intended for a longer stay at sea, which is furthermore authorised to carry no more than 12 passengers in addition to the crew,

21) *foreign yacht* is a waterborne craft for sports and recreation of foreign nationality and considered as such according to regulations of the country it belongs to,

22) *public ship*, is a ship, apart from a warship, intended and equipped for conducting tasks of the overall interest of the state, and whose owner or operator is the government or its competent authority (ex. a police vessel, a port authority vessel etc.), serving exclusively for non-commercial purposes,

23) *foreign public ship* is a waterborne craft owned or used by a foreign state, which is not a warship, and serves exclusively for non-economic purposes of the state in question,

24) *foreign merchant ship* is a ship of foreign nationality used for economic purposes

25) *oil tanker* is a ship intended mainly for the transport of liquid bulk oil,

26) *chemical tanker* is a ship intended mainly for the transport of dangerous chemicals and noxious substances in bulk,

27) *liquefied gas carrier* is a ship intended for the transport of liquefied gases in bulk,

28) *scientific research ship* is a ship intended exclusively for scientific or technical research or exploitation of the sea, seafloor or its seabed, furnished with equipment and devices for such purposes as well as with accommodations for a special crew,

29) *ship under construction* encompasses shipbuilding from the moment of laying the keel or a similar activity in shipbuilding up to the time of its entering into the register of ships,

30) *existing ship* is a ship that is not under construction,

31) *naval formation of foreign warships* means a number of foreign warships sailing together under the command of one commander,

prijevod: Jasenka Težak Štefanić

32) *ship operator* is a natural or legal person who, in the capacity of a ship possessor undertakes a maritime venture on the presumption that, until proved otherwise, the ship operator is the person entered into the register of ships as the ship owner,

33) *ship manager* is a natural or legal person managing business and/or in charge of technical maintenance of the ship and/or the hiring of the ship crew,

34) *company* is a natural or legal person who has assumed the responsibility for managing a ship from the ship owner, and that has by assuming this responsibility assumed the authorities and liabilities in accordance with the International Safety Management (ISM Code),

35) *employer* is a person who has concluded/signed an employment contract with the sailor in its name,

36) *recognised organisation* in an organisation fulfilling the conditions prescribed by special regulations, and authorised by the Ministry for conducting statutory certifications of maritime craft, encompassing inspections and issuing the documents prescribed,

37) *authorised organisation for security protection of ships* is an organisation fulfilling the conditions prescribed by special regulations, and authorised by the Ministry for conducting statutory certifications regarding the security protection of ships,

38) *competent authority* is the organisation fulfilling the conditions prescribed by special regulations, and authorised by the Ministry for conducting statutory certifications of maritime craft, encompassing conducting the assessment of conformity of boats for sport and recreation and yachts up to 24 m long during construction,

39) *Technical Rules for Statutory Certification of Maritime Craft* (hereinafter: Technical Rules) are regulations adopted on the basis of this Code, establishing requirements maritime craft and companies must conform to, as well as the procedure of technical supervision and the issuing of documents, notes and records of the maritime craft and company,

40) *carrier* is the ship owner, ship operator or a person concluding a contract with the party ordering transport,

41) *passenger* is any person on board the maritime craft, with the exception of children less than one year old, and persons employed on the ship in any capacity,

42) *public transportation* is the transport of persons and objects available to anyone on equal terms, and performed on the basis of a contract on transport,

43) *international voyage* is a scheduled voyage by ship, yacht or boat according to the navigation plan from any Croatian port to a foreign port or vice versa,

44) *oil* applies to any persistent carbon mineral oil such as crude petroleum and all its derivatives, as well as sludge and residual oils as indicated in Annex I of the International Convention for the Prevention of Pollution from Ships, as amended (MARPOL 73/78) regardless of whether they are transported as cargo or as fuel and lubricant reserves,

45) *port* is a sea port, i.e. water area and the land area directly connected with this water area by constructed and non-constructed wharf structures, breakwaters, equipment, installations and other facilities intended for berthing, anchoring and sheltering of ships, yachts and boats, for embarking and discharging passengers and goods, for storage and other handling of goods, production, refinement and final processing of goods, as well as other business activities having an economic, traffic or technological connection with the activities stated above,

46) *port open to international traffic* is a port with free admission of waterborne craft of all flags,

prijevod: Jasenka Težak Štefanić

47) *anchorage* is a part of the sea or port developed and marked for the purpose of anchoring,

48) *mean low-water line* is the arithmetic mean of all low waters in the course of a month or a year,

49) *mean high-water line* is the arithmetic mean of all high waters in the course of a month or a year,

50) *Special Drawing Rights* is an accounting unit as defined by the International Monetary Fund,

51) *Ministry* signifies the ministry authorised for maritime affairs,

52) *minister* signifies the minister in the ministry authorised for maritime affairs.

Part Two

MARITIME AND SUBMARINE AREASOF THE REPUBLIC OF CROATIA

Title I

GENERAL PROVISION

Article 6

(1) The sovereignty of the Republic of Croatia at sea extends across the internal waters and the territorial sea of the Republic of Croatia, the air space above them and the seafloor and seabed of these maritime spaces.

(2) In its exclusive economic zone and on the continental shelf the Republic of Croatia shall implement its vested rights and jurisdiction in order to explore, exploit, protect, preserve and promote its natural maritime resources, including the resources on the seafloor and the seabed, as well as for the purposes of conducting other economic activities.

(3) The Republic of Croatia shall protect, guard and advance the maritime environment.

(4) The Republic of Croatia shall cooperate with countries in the region and participate in the work of regional and international organisations to establish general and regional rules, measures, recommended practices and procedures for the purpose of preventing, decreasing and monitoring the pollution of the sea and the maritime environment from sources on land, from ships, by submersion, from the air or through the air, as well as from pollution caused by activities on the seafloor and the seabed.

(5) The Republic of Croatia shall encourage regional cooperation, particularly with neighbouring countries in order to adopt joint plans of urgent response in cases of accidents caused by the pollution of the maritime environment.

(6) The Republic of Croatia shall protect, by special measures, sensitive ecosystems, habitats of species and other forms of life in the sea which are rare, endangered or threatened by extinction.

Title II

INTERNAL WATERS

Article 7

(1) The internal waters of the Republic of Croatia encompass:

1) harbours and bays on the seashore of the land and islands,

2) parts of the sea between the low-water line on the seashore on land and the straight baseline for the measurement of the territorial sea width referred to in Article 18, Paragraph 2, Points 2 and 3 of this Code.

(2) A bay referred to in Paragraph 1, Point 1 of this Article is a clearly defined indentation

into land whose sea surface is equal to or larger than the surface of the semicircle the length of the diameter of which equals the length of the straight line closing the entrance to the bay.

(3) The sea surface of the bay is measured from the low-water mark around the shore of the bay and the straight line closing the entrance to the bay.

(4) The ports open to international traffic in the Republic of Croatia are designated by the Government of the Republic of Croatia by a special regulation.

Article 8

(1) A foreign merchant ship shall be permitted to proceed along the international sea waters of the Republic of Croatia in order to enter a port open to international traffic or the port in which the shipyard where this ship is going to be repaired is located, to leave such a port, and to sail between the ports open to international traffic by the shortest customary route.

(2) The Minister may order another manner of navigation for foreign merchant ships in the internal waters if this is required by the interests of the country defence or for the safety of navigation.

Article 9

(1) Coastal trade, i.e. the transport of goods and passengers from one Croatian port to another shall be carried out exclusively by ships, yachts and boats of Croatian nationality.

(2) Transport of persons on a foreign yacht or boat within the internal waters and the territorial sea charged for shall also be considered as coastal trade.

(3) By way of derogation from provisions of Paragraphs 1 and 2 of this Article, the Ministry may permit:

1) a foreign ship to transport empty containers in their exploitation between ports of the Republic of Croatia,

2) a foreign ship, yacht or boat to transport persons and goods between Croatian ports if this is in the economic interest of the Republic of Croatia, having previously obtained an opinion of the Croatian Chamber of Economy.

(4) The transport of persons by yacht or boat charged for, in internal waters and the territorial sea of the Republic of Croatia shall be conducted exclusively by a boat or yacht of Croatian nationality, owned by a domestic natural or legal person fulfilling the conditions established by special regulations adopted by the Minister.

(5) The amount of compensation for issuing the permit from Paragraph 3 of this Article shall be determined by the Minister.

Article 10

(1) A foreign warship, foreign public ship, foreign fishing vessel, and foreign scientific research ship may sail into the internal waters of the Republic of Croatia in order to enter a port open to international traffic or the port in which the shipyard where this ship is going to be repaired is located, if prior authorisation has been obtained for this:

1) for a foreign warship - from the ministry in charge of defence,

2) for a foreign public ship and scientific research ship - from the Ministry, having obtained prior consent for this from the ministry in charge of internal affairs,

3) for a foreign fishing ship - from the Ministry.

(2) Entry into the internal waters of the Republic of Croatia and the stay in a Croatian port or the port in which the shipyard where this ship is going to be repaired is located may be permitted to a foreign nuclear warship or a foreign warship carrying nuclear weapons.

(3) A ship from Paragraph 2 of this Article must first submit certified copies of the

documentation regarding the safety of nuclear equipment to the ministry in charge of defence.

(4) Permission to sail to a ship from Paragraph 2 of this Article shall be issued by the Government of the Republic of Croatia upon prior opinion of the state administration body in charge of nuclear safety, the ministry in charge of defence and the Ministry.

(5) Entry into internal waters of the Republic of Croatia and the stay in a Croatian port shall not be permitted to a foreign warship whose stay endangers the security of the Republic of Croatia.

Article 11

(1) No more than three foreign warships of the same nationality shall stay in the ports of the Republic of Croatia at the same time.

(2) No stay of a foreign warship in a port of the Republic of Croatia shall last for more than 10 days.

(3) By way of derogation, the ministry in charge of defence may, if this is required for specially justified reasons, permit the visit of foreign warships regardless of the conditions prescribed by provisions of Paragraphs 1 and 2 of this Article.

(4) The minister in charge of defence shall have the obligation to inform the Government of the Republic of Croatia about permission from Paragraph 3 of this Article within 8 days.

(5) During the visit in the internal waters of the Republic of Croatia the foreign warship shall have only the crew of the warship on board.

Article 12

(1) Foreign yachts and boats intended for pleasure, sports and recreation may sail and stay in the internal waters and in the territorial sea of the Republic of Croatia, except in the restricted zones indicated in Article 16 and Article 29 of this Code, on the condition that immediately upon entering into the internal waters of the Republic of Croatia they sail by the shortest route to the nearest port open to international traffic and conduct border control and other necessary activities in accordance with provisions from Paragraph 2 of this Article.

(2) Detailed regulations concerning the navigation and stay of foreign yachts and foreign boats intended for sports and recreation in the internal waters and their stay in the territorial waters of the Republic of Croatia shall be prescribed by the Government of the Republic of Croatia.

(3) The amount of compensation for the safety of navigation charged to foreign yachts and boats from Paragraph 1 of this Article shall be determined by the Minister.

Article 13

(1) Domestic and foreign legal and natural persons, as well as a Croatian warship may engage in research, testing, photographing and/or measuring of the sea, seafloor or seabed of the internal waters of the Republic of Croatia only with the authorisation to do so from the ministry in charge of science.

(2) Domestic and foreign legal and natural persons may engage in archaeological research, photographing and/or other forms of documenting the cultural heritage at sea, on the seafloor and the seabed of the internal waters of the Republic of Croatia only with the authorisation to do so from the ministry in charge of culture.

(3) Domestic and foreign legal and natural persons may engage in research, testing, photographing and/or measuring of the sea, seafloor and/or seabed in the protected nature areas of the internal waters of the Republic of Croatia only with the authorisation to do so from the ministry in charge of environment protection.

(4) Permissions from Paragraphs 1, 2 and 3 of this Article are issued by the ministries

authorised upon prior consent of the Ministry regarding the safety of navigation, and the Ministry in charge of defence regarding defence issues.

(5) By way of derogation from provisions of Paragraph 4 of this Article, a Croatian warship shall be permitted to conduct research only upon authorisation to do so from the ministry in charge of science.

(6) During research, photographing and/or measuring of the sea as stipulated in Paragraphs 1 and 3 of this Article, at least one person must be present on the foreign scientific research ship, who has the status of a scientist according to special regulations and is employed in a domestic scientific organisation.

(7) During archaeological research as stipulated in Paragraph 2 of this Article, at least one professional must be present on the foreign scientific research ship, designated by the ministry in charge of culture.

(8) During research in protected nature areas as stipulated in Paragraph 3 of this Article, at least one professional must be present on the foreign scientific research ship, designated by the ministry in charge of environment protection.

(9) During research as stipulated in Paragraphs 6 and 7 of this Article, if the ship is also a warship, at least one professional member of the Armed Forces of the Republic of Croatia, or from the ministry in charge of defence must be present.

Article 14

(1) Repairs, replacement of equipment and machinery, painting, cleaning and the like (hereinafter: repair) of foreign warships may be conducted in the shipyards of the Republic of Croatia upon authorisation from the ministry in charge of defence.

(2) The authorisation for repair of a foreign warship shall be given to a shipyard for a period necessary for the repairs to be carried out, but not for longer than 16 months. As an exception the Government of the Republic of Croatia may, if this is in the interest of the Republic of Croatia, approve a longer period for the repair.

(3) An appeal against the ruling of the ministry in charge of defence granting or denying authorisation cannot be filed, however administrative proceedings can be initiated.

Article 15

(1) The foreign warship undergoing repair shall have only one third of the crew with personal arms and one accompanying unit of fire of its usual peacetime composition on board.

(2) The foreign warship whose repairs have been approved shall immediately after entering the Croatian port unload the fuel and lubricants, ammunition and other lethal weapons, with the exception of nuclear weapons, to a place determined by the military commander authorised for the port in which the repairs are to be carried out.

(3) During repair the crew of the foreign warship may stay and is granted freedom of movement in the place where the ship repairs are carried out.

(4) Regulations of the Republic of Croatia shall apply to workers taking part in the repair works on the foreign warship, as well as to the persons who are officially on board the ship in the name of the Republic of Croatia.

(5) Provisions of Paragraphs 1 – 4 of this Article shall also apply to a foreign public ship undergoing repairs.

Article 16

(1) The minister in charge of defence may, upon consent of the Minister, designate restricted zones in the internal waters of the Republic of Croatia.

(2) Waterborne craft shall not sail through restricted zones in the internal waters, except

prijevod: Jasenka Težak Štefanić

in cases of *force majeure*.

(3) By way of derogation from provisions of Paragraph 2 of this Article, the ministry in charge of defence may authorise the navigation of waterborne craft, without discrimination, through restricted zones in the internal waters, except in cases of *force majeure.*

(4) An appeal against the ruling of the ministry in charge of defence granting or denying the authorisation from Paragraph 3 of this Article cannot be filed, however administrative proceedings can be initiated.

(5) The regulations regarding the creation of a restricted zone in the internal waters shall be published in the "Notice to Mariners" and in other appropriate ways.

Article 17

(1) A foreign waterborne craft that due to *force majeure* or distress at sea has been forced to take refuge in the internal sea waters of the Republic of Croatia, shall without delay inform the nearest port authority or port authority branch office of this, which shall in turn inform the competent police station of the information received.

(2) The waterborne craft that due to *force majeure* or distress at sea has been forced to take refuge in a restricted zone from Article 16 herein shall have the obligation to report this immediately to the nearest port authority or port authority branch office, which shall in turn inform the competent command of the Armed Forces about the information received.

(3) The Minister shall determine refuge locations, prescribe conditions that these locations must fulfil, and determine the conditions and the procedure for using the refuge locations.

Title III

TERRITORIAL SEA

Article 18

(1) The territorial sea of the Republic of Croatia is the sea belt 12 nautical miles wide, calculating from the baseline in the direction towards the exclusive economic zone.

(2) The baseline is formed by:

1) the line of the low waters along the shores of the land and the islands,

2) straight lines closing the entrances to ports or bays;

3) straight lines connecting these points on the shore of the land and on the shore of the islands:

a) cape Zarubača - south-eastern cape of the island of Mrkan - southern cape of the island of St. Andrija - cape Gruj (island of Mljet),

b) cape Korizmeni (island of Mljet) - island of Glavat - cape Struga (island of Lastovo) - cape Veljeg Mora (island of Lastovo) - south-western cape of the island of Kopište – cape Velo Dančе (island of Korčula) – cape Proizd – south-western cape of the island of Vodnjak - cape Rat (island of Drvenik Mali) - rock Mulo - rock Blitvenica - island of Purara - island of Balun - island of Mrtovac - island of Garmenjak Veli - point on the island of Dugi Otok with co-ordinates 43°53'12" north latitude and 15°10'00" east longitude,

c) cape Veli Rat (island of Dugi Otok) - rock Masarine - cape Margarina (island of Susak) – Albanež shallows – island of Grunj – rock of Sv. Ivan na Pučini - Mramori shallows - island of Altež - cape Kastanjija.

(3) The baselines are marked on the sea chart "Jadransko more" (Adriatic Sea), published by the Hydrographic Institute of the Republic of Croatia.

(4) In determining the straight baselines of the territorial sea, the most projecting permanent port constructions being an integral part of the port system shall also be considered

as part of the seashore.

Article 19

The outer border of the territorial sea is the line any point of which is 12 nautical miles away from the nearest point on the baseline.

Article 20

Any foreign waterborne craft has the right of innocent passage through the territorial sea of the Republic of Croatia.

Article 21

(1) An innocent passage of a waterborne craft comprises navigation in the territorial sea of the Republic of Croatia without entering any of the country's ports open to international traffic, or navigation with the purpose of entering such a port, or a port where the shipyard in which the waterborne craft will be repaired is located, or in order to sail out of it into the exclusive economic zone, on condition that the peace, order or safety of the Republic of Croatia have not been endangered.

(2) A foreign waterborne craft shall accomplish such innocent passage by the shortest usual route, without interruption and delay.

(3) Interception and anchoring of a foreign waterborne craft using the right of innocent passage is permitted only if caused by events encompassed by regular navigation or *force majeure* or distress at sea, or in order to offer assistance to people, waterborne craft or aircraft in danger or in trouble.

Article 22

The ministry in charge of foreign affairs in the Republic of Croatia shall be informed through diplomatic channels by the country to which the warship belongs about the intention of innocent passage of the foreign warship through the territorial sea of the Republic of Croatia no later than 24 hours before the ship enters the territorial sea of the Republic of Croatia.

Article 23

A foreign waterborne craft engaging in one of the activities listed below while in the territorial sea of the Republic of Croatia shall not be considered as being in innocent passage:

1) threatens with force or uses force against the sovereignty, territorial integrity and by the Constitution of the Republic of Croatia established legal system, or in any manner violates the principles of international law,

2) exercises or conducts training with weapons,

3) collects any information or data which could jeopardize the defence or security of the Republic of Croatia,

4) conducts any propaganda activity aimed at jeopardizing the defence or security of the Republic of Croatia,

5) allows the launching, landing or taking on board of any aircraft,

6) launches, lands or takes on board any type of military device,

7) loads or unloads any goods, currency or persons contrary to the customs, taxation or health regulations or rules concerning the entry and stay of foreigners in the Republic of Croatia,

8) deliberately or seriously pollutes the maritime environment,

9) conducts any fishing or catching of other marine animals,

10) conducts any research, testing or measuring activities,

prijevod: Jasenka Težak Štefanić

11) conducts any activity aiming at unauthorised interference with any communications system or any other system or installation of the Republic of Croatia,

12) conducts any other activity not in direct connection to the passage.

Article 24

(1) The Minister may within the internal waters and in the territorial sea of the Republic of Croatia determine and prescribe compulsory navigable waterways or traffic separation schemes, vessel communication systems as well as the procedure for managing maritime traffic for the reasons of the safety of navigation for all or for certain kinds of waterborne craft.

(2) For the purposes of the safety of navigation, protection of the sea from pollution, preventing the endangerment of biological and landscape diversity, as well as to decrease the danger of more serious maritime accidents, the Minister is entitled to ban the navigation in certain parts of the internal waters or the territorial sea, either for vessels of certain type or size, or for vessels transporting certain types of cargo.

(3) The navigable waterways and traffic separation schemes referred to in Paragraph 1 of this Article shall be established in the specially protected nature areas with consent of the ministry in charge of environment protection.

(4) The navigable waterways and traffic separation schemes referred to in Paragraph 1 of this Article shall be indicated in the sea chart "Jadransko more" and announced in due time in the "Notice to Mariners".

Article 25

(1) A foreign fishing ship on passage through the territorial sea of the Republic of Croatia is prohibited from engaging in fishing or in catching of other marine animals in the sea or on the seafloor.

(2) A foreign fishing ship when in the territorial sea of the Republic of Croatia shall sail at a speed of not less than six knots, without stopping or anchoring except if absolutely necessary due to *force majeure* or distress at sea, and shall exhibit visible marks of a fishing vessel.

(3) Provisions of Paragraphs 1 and 2 of this Article shall not refer to a foreign fishing ship in possession of a permit for fishing in the territorial sea of the Republic of Croatia while the ship is located in an area where fishing is permitted.

Article 26

(1) More than three foreign warships of the same nationality shall not be permitted to navigate in the territorial sea of the Republic of Croatia at the same time.

(2) By way of derogation from Paragraph 1 of this Article permission may be granted by the minister in charge of defence for more than three foreign warships of same nationality to navigate in the territorial sea of the Republic of Croatia at the same time.

Article 27

Warships, tankers, nuclear-powered ships, and other ships when carrying dangerous chemicals or noxious materials, while sailing in the internal waters and during the innocent passage through the territorial sea of the Republic of Croatia must navigate following the prescribed navigable waterways for such ships, observe the traffic separation schemes in areas where such traffic waterways or systems of separated traffic have been prescribed, and conform to any other prescribed conditions regarding the safety of navigation and the prevention of polluting the maritime environment.

Article 28

prijevod: Jasenka Težak Štefanić

While navigating in the territorial sea of the Republic of Croatia a foreign submarine or any other underwater vessel must navigate on the sea surface and fly both the flag of its country and the flag of the Republic of Croatia.

Article 29

(1) As an absolutely necessary safety measure the Minister, and the minister in charge of defence for the purpose of training with weapons, shall define particular zones in the territorial sea of the Republic of Croatia in which the passage of waterborne craft shall be temporarily suspended.

(2) The order establishing the zone from Paragraph 1 of this Article with the zone boundaries and other necessary data shall be published in due time in the "Notice to Mariners".

Article 30

If a foreign warship or a foreign public ship does not observe the regulations regarding the innocent passage from Articles 21 to 24 and 26 to 29 of this Code or the generally accepted international regulations concerning the prevention of collisions at sea, and if the ship does not respond to the call sent to it to submit to these regulations, the Croatian police or other authorised vessel, a warship or an aircraft or a competent authority shall demand the ship to leave the territorial sea of the Republic of Croatia immediately.

Article 31

(1) Domestic and foreign legal and natural persons, as well as a Croatian warship may engage in research, testing, photographing and/or measuring of the sea, seafloor or seabed of the territorial sea of the Republic of Croatia only with the authorisation to do so from the ministry in charge of science and upon prior consent from the ministry in charge of defence regarding defence interests.

(2) By way of derogation from provisions of Paragraph 1 of this Article, a Croatian warship shall be allowed to conduct research only upon authorisation to do so from the ministry in charge of science.

(3) Domestic and foreign legal and natural persons may engage in archaeological research of the cultural heritage at sea, on the seafloor and the seabed of the territorial sea of the Republic of Croatia only with the authorisation to do so from the ministry in charge of culture.

(4) Domestic and foreign legal and natural persons may engage in research, testing, photographing and/or measuring of the sea, seafloor and/or seabed in the protected nature areas in the territorial sea of the Republic of Croatia only with the authorisation to do so from the ministry in charge of environment protection.

(5) Authorisations stipulated in Paragraphs 1, 3 and 4 of this Article are issued by the ministries authorised based on a prior consent of the Ministry regarding the safety of navigation.

(6) During research, testing, photographing and/or measuring of the sea as stipulated in Paragraphs 1 and 4 of this Article, at least one person must be present on the foreign scientific research ship, who has the status of a scientist according to special regulations and is employed in a domestic scientific organisation. During archaeological research as stipulated in Paragraph 3 of this Article, at least one professional must be present on the foreign scientific research ship, designated by the ministry in charge of culture.

(7) During research in protected nature areas as stipulated in Paragraph 4 of this Article, at least one professional must be present on the foreign scientific research ship, designated by

the ministry in charge of environment protection.

(8) During research as stipulated in Paragraphs 6 and 7 of this Article, if the ship is also a warship, at least one professional member of the Armed Forces of the Republic of Croatia, or from the ministry in charge of defence must be present.

(9) Conditions for sailing into, transit and stay of foreign warships and scientific research ships in internal waters and the territorial sea of the Republic of Croatia, as well as the requirements and the procedure for conducting the scientific and other research, testing, photographing and measuring of the sea, seafloor or seabed of the internal waters, the territorial sea, the continental shelf and the exclusive economic zone of the Republic of Croatia shall be prescribed by the Government.

Title IV

EXCLUSIVE ECONOMIC ZONE

Article 32

The exclusive economic zone of the Republic of Croatia comprises the maritime spaces from the outer limit of the territorial sea in the direction of the open sea up to its outer limit permitted by general international law.

Article 33

(1) In its exclusive economic zone the Republic of Croatia shall implement its sovereign rights with the purpose of:

a) exploring and exploiting, conserving and managing the living and inanimate natural resources,

b) generating power using the sea, sea currents and winds.

(2) The Republic of Croatia shall cooperate with neighbouring countries in order to adopt and implement measures of protection and preservation of living maritime resources in the area of the exclusive economic zone of the Republic of Croatia.

Article 34

The competent authorities of the Republic of Croatia have the right and obligation to undertake any necessary measures in order to implement their sovereign rights of exploring, exploiting, conserving and managing the living maritime resources in the exclusive economic zone of the Republic of Croatia, including examination, inspection, seizure of foreign ships and court proceedings. The state the flag of which is flown on the ship seized or detained shall be informed without delay through diplomatic channels of the seizure or detainment of the foreign ship and of the penalties adjudged.

Article 35

(1) In the exclusive economic zone the Republic of Croatia has the exclusive right to construct, permit and control construction, work and use of artificial islands, installations and appliances at sea, on the seafloor and the seabed.

(2) Relevant regulations of the Republic of Croatia shall apply to the construction, work and usage of objects from Paragraph 1 of this Article.

Article 36

The legal or natural person granted permission to construct an artificial island, installation or device referred to in Article 35 of this Code, is under the obligation to:

a) communicate the data concerning the place, manner of construction and the dimensions, size, depth and appearance of the maritime facility at the latest 30 days before the beginning of the works, through the port authority,

b) install permanent signalling devices at the site where the construction work is to begin, as well as on the maritime facility itself before beginning the construction works,

c) at the latest within 30 days following the conclusion of construction or usage remove any maritime facility that is no longer in use or is abandoned, without causing damages to fishing, protection and conservation of the maritime environment or to any other legitimate use of the sea.

Article 37

(1) At the request of the contractor engaged in the exploration and exploitation of the exclusive economic zone resources of the Republic of Croatia the Minister may, where appropriate, establish safety zones up to 500 m wide around the artificial islands, installations and appliances from Article 35 of this Code measuring from every point of the outer edge of the maritime facility, and may prohibit navigation in these zones.

(2) The establishment of a safety zone, its width and regime of navigation in it shall be announced in due time in the "Notice to Mariners".

Article 38

Artificial islands, installations and devices, as well as safety zones around them shall not be established in locations where they may interfere with the recognised international navigable waterways.

Article 39

Customs and tax regulations, health insurance regulations, and regulations concerning the entry and stay of foreigners as well as penal regulations of the Republic of Croatia shall apply to any artificial island, installation and devices in the exclusive economic zone of the Republic of Croatia.

Article 40

(1) Domestic and foreign legal and natural persons, as well as Croatian warships may engage in research, testing, photographing and/or measuring of the sea in the exclusive economic zone of the Republic of Croatia under conditions prescribed in Article 13 of this Code.

(2) A foreign warship, foreign public ship, foreign fishing vessel, and foreign scientific research ship may conduct activities from Paragraph 1 of this Article only upon obtaining prior authorisation for this from the Ministry indicated in Article 10 of this Code.

Article 41

(1) While navigating in the exclusive economic zone of the Republic of Croatia waterborne craft are under the obligation to observe the generally accepted international regulations and standards, as well as Croatian regulations concerning the prevention of polluting the sea and air from ships and pollution caused by submerging or by activities in the seabed.

(2) Legal and natural persons participating in the research or exploitation of the natural resources of the exclusive economic zone of the Republic of Croatia are under the obligation to observe international and Croatian regulations, procedures and standards regarding the protection and conservation of the sea, living maritime resources and the maritime environment.

(3) During an over flight of the exclusive economic zone of the Republic of Croatia the aircraft shall observe the generally accepted international rules and Croatian regulations pertaining to preventing the pollution of the sea from the air or through the air.

(4) Detailed regulations regarding the prevention of polluting the maritime environment in

prijevod: Jasenka Težak Štefanić

the exclusive economic zone shall be prescribed by the minister in charge of environment protection.

Title V

THE CONTINENTAL SHELF

Article 42

(1) The continental shelf of the Republic of Croatia comprises the seafloor and the seabed outside the extreme limit of the territorial sea of the Republic of Croatia in the direction of the open sea up to the border lines of the continental shelf of neighbouring countries.

(2) The borders of the continental shelf of the Republic of Croatia and the Republic of Italy were laid down by the agreement from 1968 between Italy and the former Socialist Federal Republic of Yugoslavia.

(3) Until an agreement pertaining to border demarcation of the continental shelf with Montenegro, i.e. with Serbia and Montenegro is reached, the Republic of Croatia shall exercise its sovereign rights in that zone up to the median line as a continuation from the outer border of the territorial sea in the bay of Boka Kotorska in the direction of open sea.

Article 43

(1) The Republic of Croatia shall exercise its sovereign rights over the continental shelf with the purpose of its exploration and exploitation of the natural resources in this zone.

(2) The term "natural resources" mentioned in Paragraph 1 of this Article comprises the mineral and other inanimate resources of the seafloor and the seabed, as well as the marine living resources which, at the harvesting stage, are either immobile on or under the seafloor, or are able to move only in constant physical contact with the seafloor or the seabed.

(3) Foreign legal and natural persons may exploit the marine living resources from this Article only in cases determined by an international contract.

Article 44

(1) In order to exercise the rights from Article 43, Paragraph 1 of this Code the navigation, fishing, protection of living resources of the sea, as well as the basic oceanographic or other scientific explorations having a public character, shall not be unjustifiably prevented.

(2) Provisions of Article 40 of this Code shall apply to explorations in the continental shelf from Paragraph 1 of this Article.

Article 45

(1) The exploitation of natural resources of the continental shelf of the Republic of Croatia and the positioning, start-up and maintenance of the necessary installations and equipment for the exploration and engagement in the exploitation activities may be carried out in accordance with conditions prescribed by this Code, regulations adopted on the basis of Code and other regulations.

(2) Provisions of Articles 35 to 39 of this Code shall apply to the installations and equipment from Paragraph 1 of this Article.

(3) The Ministry shall approve and supervise the positioning and maintenance of submarine cables and pipelines in the continental shelf of the Republic of Croatia that enter into the area of the Croatian territorial sea, and consent as to the direction of laying submarine pipelines in the continental shelf of the Republic of Croatia which do not enter the area of the territorial sea of the Republic of Croatia.

(4) An appeal against the ruling of the Ministry granting or denying authorisation from

prijevod: Jasenka Težak Štefanić

Paragraph 3 of this Article cannot be filed, however administrative proceedings can be initiated.

(5) The regulations laid down herein regarding the prevention of pollution caused by activities on the seafloor and the seabed for the purposes of exploration or exploitation of natural resources of the continental shelf, including pollution from artificial islands, installations, equipment and pipelines laid on the seafloor, as well as conditions being the basis for an authorisation from Paragraph 3 of this Article, are prescribed by the Minister upon consent from the minister in charge of environment protection.

Title V

THE RIGHT OF HOT PURSUIT

Article 46

(1) Hot pursuit of a foreign ship shall be undertaken if the competent authority has a founded suspicion that a foreign waterborne craft, or its part is in violation of provisions of this Code, any other regulations of the Republic of Croatia or the generally accepted regulations of international law.

(2) Hot pursuit of a foreign waterborne craft shall begin only if the suspected waterborne craft or its part is located in the internal waters, in the territorial sea, in the exclusive economic zone or above the continental shelf of the Republic of Croatia and if it does not come to a stop following a visible or audible call to stop sent from a distance permitting the call to be seen or heard.

(3) The hot pursuit of a foreign waterborne craft can continue in the open sea, in the exclusive economic zone or in the contiguous zone of the foreign country until the hot pursuit is abandoned, or until the pursued waterborne craft has entered the territorial sea of its own or of a third country.

(4) Hot pursuit can be undertaken by police vessels, warships or military aircraft or other vessels or aircraft authorised for the purpose. In the exclusive economic zone or over the continental shelf, hot pursuit shall begin only in case violation of the regulations applicable in these zones has been committed.

(5) If the waterborne craft from this Article has been seized, it shall be surrendered to the competent authority to conduct the relevant proceedings.

(6) Provisions of this Article do not refer to foreign warships and public ships enjoying immunity.

Part Three

SAFETY OF NAVIGATION

Title I

COMMON PROVISIONS

Article 47

The safety of navigation established by this Code refers to:

(1) the basic conditions that shall conform to: the navigable waterways in the internal waters and in the territorial sea of the Republic of Croatia, ports, waterborne craft of Croatian nationality as well as those sailing in the internal waters and in the territorial sea of the Republic of Croatia, the crew on waterborne craft, navigation and pilotage at sea,

2) the supervision on implementing provisions of this section of the Code.

Article 48

prijevod: Jasenka Težak Štefanić

(1) A legal or natural person conducting transport in the public traffic at sea, or engaging in the activity of renting vessels or in other economic activities at sea, a company or an authority managing a port or a company in charge of maintaining and marking the navigable waterways are under the obligation to:

(1) organise the supervision of works relating to the safety of navigation, in accordance with this Code and regulations adopted on the basis of this Code,

(2) provide for the permanent supervision of the safety of navigation,

(3) keep track of the required data significant for the safety of navigation.

(2) The company is under the obligation to create and maintain a documented safety management system in accordance with the Technical Rules.

(3) Inspection of the tasks conducted as indicated in this Article shall be undertaken by the safety of navigation inspection of the Ministry and the port authorities.

Article 49

(1) The Ministry shall investigate any accident of a ship of Croatian nationality, as well as of a ship of foreign nationality having an accident in the internal waters or territorial sea of the Republic of Croatia if the accident has resulted in death or serious injuries of Croatian citizens, in a major loss of or damages to property, or in the pollution of the maritime environment.

(2) Investigation findings from Paragraph 1 of this Article shall be publicly announced.

(3) The procedure, conditions and authorisations for conducting the investigation from Paragraph 1 of this Article shall be prescribed by the Minister, with consent of the minister in charge of environment protection in the part referring to environment pollution.

Title II

NAVIGABLE WATERWAYS

Article 50

(1) A navigable waterway in the internal waters and in the territorial sea of the Republic of Croatia is the maritime belt of sufficient depth and width for safe navigation of a waterborne craft and, where applicable, marked.

(2) The facilities providing for the safety of navigation on navigable waterways in the internal waters and in the territorial sea of the Republic of Croatia are: lighthouses, coasting lights, buoys and other navigation marks, signal stations and radio stations, optical, audible, electrical, electronic, radar and other aids for safe navigation.

(3) Sports and other activities may be conducted in the navigable waterway solely upon obtaining authorisation to do so from the authorised port of authority and based on conditions established in the authorisation.

(4) A compensation fee shall be charged for the usage or exploitation of the facilities providing for the safety of navigation on navigable waterways.

Article 51

(1) Navigable waterways of the Republic of Croatia shall be serviced, their navigability maintained, they shall be provided with facilities securing the safety of navigation and their proper operation shall be secured.

(2) Hydrographic activities shall take place in the navigable waterways of the Republic of Croatia for the purposes of securing accurate data regarding depths, types of seafloor, currents, sea density, waves and sea level oscillations. Measurements of parameters are systematic and shall be conducted in accordance with standards of the International

Hydrographic Organisation.

(3) Data indicated in Paragraph 2 of this Article shall be indicated and described in official sea charts and publications of the Hydrographic Institute of the Republic of Croatia.

(4) Marks and procedures for marking in the navigable waterways in the internal waters and in the territorial waters of the Republic of Croatia shall be prescribed by the Minister.

Article 52

The work referred to in Articles 50, 51, Paragraphs 1 and 4 of this Code shall be conducted by the company Plovput, while the work referred to in Article 51, Paragraphs 2 and 3 of this Code shall be conducted by a public institution, the Hydrographic Institute of the Republic of Croatia.

Article 53

For the installation of beacons and marks signalling obstructions on the navigable waterway as well as for the exploration and exploitation of industrial and other mineral raw materials, or for the construction of installations on the navigable waterway, the port authority shall determine the position and features of beacons or marks, as well as measures for safe navigation, upon obtaining a prior opinion from the company Plovput.

Article 54

(1) The investor, owner or user of the facilities or objects representing permanent or temporary obstructions on the navigable waterway (bridges, cables, sunken objects and the like) must within the period determined by the competent port authority, install and maintain beacons and marks for signalling these obstructions.

(2) If a person referred to in Paragraph 1 of this Article fails to install the required beacon or another mark, or if the installed beacon or another mark is not maintained to function properly, the company in charge of maintenance and marking of the navigable waterway shall, at the request of the competent port authority and at the expense of that person, install the required beacon or another mark, or restore into working condition the defective beacon or another mark.

(3) The investor, owner or user of the facilities or objects constructed or positioned in internal waters and the territorial sea of the Republic of Croatia shall be required to mark them as prescribed and to maintain them in a condition not representing danger to human life or to the safety of navigation, all in accordance with provisions stipulated in this Code and regulations adopted of the basis thereof.

Article 55

(1) The coastal radio stations shall conduct radio communication services intended for the protection of human life and the safety of navigation at sea.

(2) In conducting radio service, in accordance with provisions on radio communication referred to in Paragraph 1 of this Article, the coastal radio stations shall secure a round-the-clock watch and other necessary services.

(3) Waterborne craft required to possess a radio station shall organise a round-the-clock watch while navigating in compliance with the radio communication regulations.

Title III

PORTS

Article 56

(1) The ports shall comply with the conditions prescribed for the safety of navigation, the protection of sea from pollution and the safety protection.

(2) All legal and natural persons using a port and maritime facilities located in it shall comply or fulfil the rules regarding the order in ports pertaining to the safety of navigation, the protection of human life and the protection of sea from pollution prescribed by the Minister.

(3) It is prohibited to engage in activities determined by special regulations in the port and in other parts of the internal waters.

(4) The handling of dangerous materials and other substances in ports, as well as conditions and the procedure of loading and unloading of dangerous and toxic substances, bulk and other cargo in ports, as well as the means of preventing pollution shall be prescribed by the Minister.

(5) Other issues regarding ports not regulated by this Code shall be prescribed by a special law.

Article 57

Ports may be those open to public traffic or those intended for special purposes if it has been previously established that the prescribed conditions for the safety of navigation in ports have been complied with.

Article 58

(1) The authority managing the port shall maintain the port so as to secure safe navigation, mooring and anchoring of waterborne craft, as well as the loading and unloading of both cargo and passengers, and conduct other activities prescribed by this Code or regulations adopted on the basis of this Code, securing safe conditions in the port.

(2) The authority from Paragraph 1 of this Article shall maintain the port clean from objects endangering the safety of navigation or polluting the sea.

Article 59

(1) The authority managing the port open to public traffic shall on equal terms enable any natural and legal person to use the wharfage, breakwaters and other facilities in the port according to their purpose and within the capacity of the available facilities, unless otherwise stipulated by this Code or another act.

(2) As regards the exploitation of a port open to international public traffic and the payment of port dues the foreign waterborne craft shall be equal to the Croatian ones, on terms of reciprocity.

(3) The application of international recommendations regarding the tonnage measurement of ballast spaces on tankers for the transport of oil with separate ballast tanks regarding the calculation of dues, fees and other charges in ports shall be prescribed by the Minister.

Article 60

(1) The foreign waterborne craft shall on arrival into the port submit to the competent port authority a general statement, a health statement and an excerpt from the crew list and the passenger list.

(2) When leaving the port the foreign waterborne craft shall submit an excerpt from the crew list and the passenger list for those persons only that had embarked on or disembarked from the vessel while the waterborne craft was in the port.

(3) The foreign waterborne craft arriving from a Croatian port shall not submit excerpts from the crew list and passenger list in the next Croatian port for those persons who have not embarked or disembarked in that port.

Article 61

prijevod: Jasenka Težak Štefanić

(1) A foreign nuclear ship intending to sail into a Croatian port open to international maritime traffic shall apply for permission to enter the port and in due time submit a certified copy of documents concerning the safety of the nuclear equipment to the Ministry.

(2) The Ministry shall deliver the documentation received regarding the safety of the nuclear equipment to the state administration body authorised for nuclear safety, for the purpose of professional assessment and determining the special program of testing (measuring) of the contents of radioactive substances in the surroundings of the nuclear ship, and to determine the amount of the special charges to be paid by the ship undertaking to cover the costs of this special program.

(3) The Ministry shall grant the ship referred to in Paragraph 1 of this Article authorisation to enter a Croatian port if it has, based on a professional assessment of the state administration body in charge of nuclear safety, determined that the ship does not present an increased danger of causing nuclear damages and provided this ship has a valid certificate on a concluded insurance contract or a certificate on financial guarantee issued by the insurer i.e. issuer of the financial guarantee, up to the amount referred to in Article 831 of this Code, and that resources for special charges from Paragraph 2 of this Article have been secured.

(4) Before the foreign nuclear ship that has been granted authorisation referred to in Paragraph 3 of this Article has entered a port, the competent port authority shall issue an order to the state administration body in charge of nuclear safety to conduct, in the most suitable place, the adequate inspection pertaining to the nuclear safety of this ship. The port authority may, if necessary, carry out repeated inspections during the ship's stay in the port.

Article 62

(1) A domestic and foreign vessel carrying more than 2,000 tons of oil as cargo, and not in possession of an insurance certificate or other financial security for the proprietary liability for damages caused by oil pollution as stipulated in Article 820 of this Code, shall not enter a Croatian port or leave a Croatian port nor shall it load or unload oil in these ports.

(2) Provisions of Paragraph 1 of this Article shall equally refer to a vessel carrying more than 2,000 tons of oil as cargo and owned by a foreign state, which is not covered by insurance or another financial guarantee, if this ship is not in possession of a confirmation from the state in which it is registered that it is the property of that state and that its liability is covered within the limits stated in Article 816 of this Code.

Article 63

(1) If in a port or other parts of the internal waters and the territorial sea of the Republic of Croatia a fire breaks out or another accident endangering the safety of human life or waterborne craft occurs, the competent port authority shall order the nearest or any other ship to proceed without delay to the site of the fire or accident to the rescue of the endangered human lives, if this does not endanger the lives on that ship.

(2) The plan of interventions for sudden pollution of the sea is prescribed by the Government.

Title IV

NAVIGATION AND PILOTAGE

1 Navigation

Article 64

(1) The captain of the ship, the crew members, the person operating the boat or yacht and crew members of this boat or yacht must apply the prescribed navigation rules while sailing, the protection of the sea from pollution and the signals and marks prescribed in accordance

with provisions of this Code and by-laws adopted on the basis of this Code, which ensure a safe and orderly navigation.

(2) Regulations from Paragraph 1 of this Article are adopted by the Minister.

(3) The Minister shall, with consent of the minister in charge of environment protection, adopt regulations regarding the management and supervision of the water ballast.

Article 65

(1) A damaged, run ground or sunken waterborne craft obstructing or endangering the safety of navigation or presenting a possible danger of pollution shall by the order of the competent port authority be removed from the navigable waterway immediately.

(2) It is forbidden to dump objects or materials that may obstruct or endanger the safety of navigation into the navigable waterway.

Article 66

(1) A waterborne craft coming from abroad shall not communicate with other ships, bodies, organisations and persons on the shore before being granted free pratique from the competent port authority.

(2) A foreign waterborne craft, a foreign warship and a foreign yacht have the obligation to fly the flag of their country as well as the flag of the Republic of Croatia while located in the territorial sea or the internal waters of the Republic of Croatia, unless they are in innocent passage.

Article 67

A laid-up foreign waterborne craft may stay within the internal waters of the Republic of Croatia on conditions established by the Minister.

2 Pilotage

Article 68

(1) Pilotage is the guidance of a waterborne craft by a competent person (pilot), and expert advice given to the captain of the waterborne craft for safe navigation in ports, straits and other areas of internal waters and the territorial sea of the Republic of Croatia.

(2) Pilotage may be port pilotage and coastal pilotage.

(3) Port pilotage is the piloting of a waterborne craft within the area of a port up to a certain limit, while coastal pilotage is the piloting in a part of the internal waters and the territorial sea of the Republic of Croatia up to the limit of port pilotage.

Article 69

(1) Piloting in the internal waters and in the territorial sea of the Republic of Croatia shall not be conducted by foreign legal persons without special authorisation from the Ministry.

(2) The authorisation shall be granted solely if a domestic legal person cannot or is not interested in conducting pilotage.

(3) An appeal against the ruling of the Ministry granting or denying authorisation from Paragraph 1 of this Article cannot be filed, however administrative proceedings can be initiated.

Article 70

(1) The captain of a ship must request pilotage services when pilotage is compulsory.

(2) Pilotage shall not be compulsory for the following:

a) Croatian warships, Croatian public ships, ships used for the maintenance of navigable waterways and facilities serving for the safety of navigation on these waterways, water

tankers, Croatian passenger ships and ferryboats in regular service,

b) ships whose gross tonnage is under 500 tons,

b) yachts whose gross tonnage is under 1000 tons,

(3) Exceptionally the Minister is entitled to exempt a certain ship or yacht from the obligation of port pilotage, with the exception of ships transporting dangerous or toxic substances, whose gross tonnage is less than 2000 tons, for a limited period and in a particular port area, on the condition that the captain has passed a special exam.

By way of derogation from provisions referred to in Paragraph 2, Point b) of this Article a port authority may prescribe compulsory port pilotage for certain types of ships whose gross tonnage is under 500 tons.

(5) Pilotage shall be conducted exclusively by a company having obtained the Ministry authorisation for this activity.

(6) Compulsory pilotage, its limits, the times of embarking and disembarking of a pilot is established by the port authority, and for coastal pilotage by the Minister.

(7) Conditions that a ship and its captain must fulfil to be exempt from compulsory pilotage, as well as contents of the exam indicated in Paragraph 3 of this Article are prescribed by the Minister.

(8) Conditions based on which the authorisation for conducting pilotage service is issued, qualifications, authorisations and other conditions and requirements to be fulfilled by the pilot, the form, procedure and conditions of issuing a piloting card, requirements to be fulfilled by a company conducting pilotage, ways of marking pilotage vessels and positive pilotage signs, as well as the conditions and the procedure of conducting pilotage including their rights and obligations shall be established by the Minister.

Article 71

Non compulsory pilotage terminates when called off by the piloted waterborne craft, or when it enters the area of compulsory pilotage, and the pilot is not authorised to conduct such pilotage.

Article 72

(1) Pilotage shall be available to any waterborne craft on equal terms.

(2) As regards the use of piloting services and the payment of the remuneration for these services the foreign waterborne craft shall receive the same treatment as the Croatian waterborne craft, on terms of reciprocity.

(3) The maximum amount of remuneration for pilotage services shall be established by the Minister in a special regulation.

Article 73

(1) The pilotage of a waterborne craft, whether compulsory of non compulsory, does not relieve the captain of the ship of the duty to conduct the navigation and manoeuvre the waterborne craft and of the responsibilities resulting therefrom.

(2) The operator of a waterborne craft using pilotage services is responsible for the pilot's actions and failures in the same way as for the actions and failures of a crew member of his own ship.

Article 74

(1) The compensation of damages caused by the pilot to the operator of the waterborne craft using pilotage services shall be the responsibility of the company employing the pilot at the time when the damages was caused, up to the amount of the basic compensation stipulated

by the rate for pilotage service rendered, multiplied by the factor of 300 if the responsibility for the damages has been proved to lie with the pilot.

(2) A contract limiting the liability of the company conducting compulsory pilotage, concluded contrary to provisions of Paragraph 1 of this Article before the damages to the ship operator has been caused, shall have no legal effect.

(3) A contract limiting the liability of the company liable to compensate damages caused by non compulsory pilotage services, concluded before the occurrence of damages for an amount smaller than the amount from Paragraph 1 of this Article shall have no legal effect.

Article 75

(1) If this Code allows for the possibility of claiming the compensation of damages directly from the pilot by whom the damages has been caused, provisions of Article 74, Paragraph 1 of this Code shall be applicable also to the pilot, except when damages caused by the pilot were deliberate.

(2) The pilot's responsibility, together with the responsibility of the company employing the pilot, or together with the responsibility of any other legal person whose employee the pilot may be, shall not exceed the limit of responsibility referred to in Article 74 of this Code, unless it can be proved that the damages caused by the pilot were deliberate.

Title V

SHIP

1 Establishing the seaworthiness of a ship

Article 76

(1) The ship is seaworthy within certain categories of navigation and for a specific purpose, if this is in accordance with provisions of this Code, regulations adopted on the basis thereof and the Technical Rules regarding:

1) the safety of human life, ship and property,

2) the system of managing the safety of a company and the ship,

3) safety protection,

4) the prevention of polluting the maritime environment by oil, damaging substances, waste waters and garbage,

5) the prevention of air pollution,

6) the protection of the maritime environment from bio-invasive species in ballast waters,

7) the protection of the maritime environment from the damaging influence of the system against hull fouling,

8) the protection at work, accommodations of the crew and others employed on the ship,

9) the conditions for transporting passengers,

10) the safety of the equipment for handling cargo.

(2) Apart from the requirements from Paragraph 1 of this Article, a ship is seaworthy also if:

1) at least the minimum number of crew members prescribed is on board, with the adequate certificates of qualifications and additional training certificates that the ship is required to possess for safe navigation,

2) the accommodations and the number of passengers on board is in accordance with:

- regulations establishing the transport of passengers,

- provisions and requirements indicated in the documents, notes and records, as well as in the approved technical documents of the ship,

3) the cargo on board has been loaded, stowed, distributed and adequately secured in compliance with:

– regulations establishing the conditions for the transport of cargo,

– provisions and requirements indicated in the documents, notes and records, as well as the approved technical documents of the ship,

4) the prescribed conditions for offering medical care have been secured, and if the ship is in possession of a properly maintained on-board pharmacy.

(3) A navigation category for a maritime vessel is prescribed by the Minister.

(4) The minimum requirements a ship, equipment and installations must comply with in order to provide the appropriate medical care to crew members, as well as the equipment and the compulsory contents of the on-board pharmacy and the ledgers on the contents of the on-board pharmacy as well as its maintenance procedure shall be prescribed by the minister in charge of health with the consent of the Minister.

Article 77

(1) The seaworthiness of a ship in compliance with provisions of Article 76, Paragraph 1 of this Code shall be determined by a recognised organisation by conducting technical supervision, and certified through the issuing of adequate ship documents, notes and records in accordance with provisions of the Technical Rules.

(2) Technical Rules are adopted by the Minister.

(3) The seaworthiness of a ship is verified by inspection, in accordance with provisions of Article 76 of this Code.

Article 78

(1) The technical supervision comprises:

1) authorisation of the technical documents on the basis of which the ship is being built or reconstructed,

2) individual or type approval of machinery, installations and equipment to be built into the ship,

3) supervision of the material, machinery, equipment and installations production which are intended to be installed on the ship in the manufacturer's workshops,

4) approval of the manufacturer and service companies,

5) supervision of the hull construction and the installation of machinery, equipment and installations in a shipyard,

6) the assessment of the system of managing the safety of the ship operator and the ship,

7) the verification of the safety protection of the ship,

8) inspections, assessments and verification of the existing ships.

(2) Technical supervision, based on a request from the company or ship constructor for a ship under construction is conducted by a recognised organisation or an organisation authorised for the safety protection of ships.

(3) The scope, conditions, rights and obligations from the authorisation for conducting technical supervision and the issuing of ship’s documents, notes and records are established by a contract on the transfer of authority between the Ministry and the recognised organisation, in accordance with a special act and the internationally adopted norms.

Article 79

prijevod: Jasenka Težak Štefanić

The inspections, assessments and verifications (hereinafter: inspection) of existing ships may be: initial, regular and occasional.

Article 80

An initial inspection is an obligatory inspection an existing ship must undergo before its initial usage at the time of:

1) its entering into the register of ships,

2) an alteration of the ship's assigned purpose, limits of navigation or of other properties of the ship to which the provisions of the Technical Rules apply.

Article 81

The regular inspections are obligatory inspections of an existing ship at intervals prescribed by the Technical Rules.

Article 82

An occasional inspection is an obligatory inspection an existing ship must undergo:

- after an accident or when defects have been found that may influence the ship's seaworthiness,
- during repairs or remodelling parts of the ship,
- when regular inspections have been postponed in compliance with provisions of the Technical Rules,
- when the ship has been laid up for more than one year,
- when the ship's assigned purpose or area of navigation has been temporarily altered,
- when this is required by the Technical Rules for a certain ship, in addition to the regular inspections.

Article 83

(1) An inspection of a ship to ascertain its ability to complete a trial navigation is an obligatory inspection a ship must undergo before a trial navigation.

(2) The scope of the inspection must be such to determine with certainty that the ship conforms to the special requirements prescribed for conducting the trial navigation.

(3) Provisions of Paragraphs 1 and 2 of this Article shall apply to any ship flying the flag of the Republic of Croatia during the trial navigation, or the flag of another state if the trial navigation is conducted in the internal waters and territorial sea of the Republic of Croatia.

(4) The requirements and procedure for conducting the trial navigation, apart from the conditions laid down by the Technical Rules, are prescribed by the Minister.

Article 84

The scope and method of conducting the initial inspection and inspection to ascertain its ability to complete a trial navigation, as well as the type, frequency, scope and method of conducting and the possibility of postponing regular inspections shall be prescribed by Technical Rules.

Article 85

The condition of the ship and its equipment shall be maintained by the company so as to retain the ship's seaworthiness in every respect without incurring any risk for the ship, the persons on board, the cargo and the environment.

Article 86

Upon the conclusion of supervising construction or reconstruction of the ship, or any inspection thereof, no alteration or modification of the ship's construction, machinery plant,

equipment or other parts to which the requirements of Technical Rules apply shall be conducted without prior consent of the recognised organisation.

Article 87

(1) The Ministry may, based on a proposal from the recognised organisation, exempt any new type of ship, a ship not in regular international service, or a ship navigating in protected areas, and to which the provisions of international treaties apply, from the compliance with these provisions in cases and on the terms referred to in these treaties, if it has been established that the ship is seaworthy under exemption conditions.

(2) The Ministry may, based on a proposal from the recognised organisation, exempt a ship to which provisions of international treaties do not apply from compliance with provisions of the Technical Rules in cases and on the terms provided in these Rules, if it has been ascertained that the ship is seaworthy under the conditions of exemption.

Article 88

If a non-passenger ship conforms to the requirement of the Technical Rules pertaining to the transport of passengers in special circumstances within the internal waters and the territorial sea of the Republic of Croatia, the recognised organisation may determine it to be capable of temporary transport of passengers on the conditions and in the scope indicated.

2 Tonnage Measurement of Ships

Article 89

The tonnage measurement of ships is conducted for the purpose of establishing the ship’s tonnage.

Article 90

The tonnage measurement of ships shall be conducted by a recognised organisation according to Technical Rules.

Article 91

Tonnage measurement is compulsory for:

1) any ship entered into the Croatian register of ships,

2) a foreign ship in a Croatian port under the obligation to pay a remuneration the amount of which is determined by the ship's tonnage, if its tonnage has been measured according to rules that significantly differ from provisions of the Technical Rules.

Article 92

The tonnage measurement of a ship shall be conducted before its entering into the register of ships.

Article 93

(1) Tonnage remeasurement is conducted if:

1) following tonnage measurement alterations have occurred in the distribution, design, capacity, use of space, the number of passengers permitted on board, the assigned freeboard or the permitted draft of the ship, causing an alteration of the ship's tonnage,

2) there is suspicion about the correctness of the tonnage measurement already conducted,

3) a ship in internal navigation is being entered into the register of maritime ships.

(2) In cases of tonnage remeasurement, and in compliance with provisions from Paragraph 1, Point 1) of this Article, and depending on the alterations conducted on the ship, the tonnage remeasurement must be carried out either entirely or partially.

3 Documents, notes and records of a ship

prijevod: Jasenka Težak Štefanić

Article 94

(1) The documents, notes and records of a ship which ships must be in possession of serve as proof of identity, seaworthiness and other properties of the ship.

(2) The notes and records of a ship, which must be kept for ships must contain data concerning significant events on the ship and activities undertaken on board.

Article 95

(1) The documents, notes and records prescribed by this Code must be written in the Croatian language and in the Latin script.

(2) The documents, notes and records issued on the basis of international treaties must also include an English translation if this is required by provisions of these treaties.

Article 96

The documents, notes and records prescribed by this Code must be on board and available for inspection at all times.

Article 97

(1) A certificate of registration shall be issued for ships entered into the register of maritime merchant ships, into the register of maritime fishing ships, and into the register of maritime public ships.

(2) The certificate of registration is proof of the Croatian nationality of the ship, with an indication that the ship has the right and obligation to fly the flag of the Republic of Croatia, and of its assigned purpose and its area of navigation.

(3) The certificate of registration contains all the entries from the excerpt of the main register of ships in which the ship has been registered.

(4) In case contents of the certificate of registration do not conform to the contents of the register of ships regarding the rights registered, the data entered into the register of ships shall prevail.

(5) The certificate of registration shall be issued by the port authority which has entered the ship into the register of ships.

Article 98

(1) The port authority which has issued the certificate of registration shall officially enter the entries from Article 97 of this Code into the ship's certificate of registration.

(2) When the ship's name, port of registry, tonnage, propulsion system, distinctive signal, assigned purpose or area of navigation have changed, the certificate of registration must be modified accordingly.

Article 99

(1) A temporary certificate of registration shall be issued to a ship procured in a foreign country that has not yet obtained a certificate of registration, or to a ship that is abroad and whose certificate of registration has been lost.

(2) A ship not yet entered into the Croatian register of ships shall, by obtaining the temporary certificate of registration, obtain the status of a Croatian ship, thus acquiring the right and obligation to fly the flag of the Republic of Croatia.

(3) The temporary certificate of registration is valid for a maximum of one year from the date of its issuing, however its validity may terminate earlier, at the time the ship enters the first Croatian port.

(4) The temporary certificate of registration shall be issued by the diplomatic or consular office of the Republic of Croatia.

prijevod: Jasenka Težak Štefanić

Article 100

In addition to the certificate of registration or a temporary certificate of registration, ships entered into the Croatian register of ships must be in possession of the following:

1) documents, notes and records prescribed by a special regulation adopted by the Minister,

2) documents, notes and records prescribed by Technical Rules.

Article 101

The contents, forms, procedure of keeping documents, notes and records, as well as their form, validity periods, possibilities of extending validity, termination of validity, suspension or withdrawal of documents, notes and records shall be prescribed by provisions from Article 100, Paragraph 1, Point 1) of this Code, i.e. by the Technical Rules.

Title VI

FLOATING FACILITY AND FIXED OFFSHORE FACILITY

1 Establishing the suitability for the usage of the floating facility and the fixed offshore facility

Article 102

(1) The floating facility and the fixed offshore facility shall be suitable for use when conforming to the requirements of this Code, the regulations adopted on the basis thereof and the Technical Rules regarding:

1) the safety of human life, the facility and property,

2) the prevention of polluting the maritime environment by oil, damaging substances, waste waters and garbage,

3) the prevention of air pollution,

4) the protection of the maritime environment from the damaging influence of the system against hull fouling,

5) the protection at work, accommodations of the crew and others employed on the ship,

6) the safety of the equipment for handling cargo.

(2) Apart from the requirements from Paragraph 1 of this Article, the floating or the fixed offshore facility is suitable for usage if:

1) at least the minimum number of crew members prescribed is on board, which this facility must have for safe usage,

2) the accommodations and the number of other people on the facility conform to provisions and requirements stipulated by the documents, notes and records, as well as to the approved technical documents,

3) the cargo on the facility is loaded, stowed and secured in accordance with provisions and requirements indicated in the documents, notes and records, as well as in the approved technical documents of the facility,

4) the facility is securely moored, anchored or positioned on the seafloor, i.e. partially or entirely embedded into the seafloor.

(3) If the floating or fixed offshore facility is constructed or used in the internal waters or the territorial sea of the Republic of Croatia, apart from requirements prescribed by Paragraphs 1 and 2 of this Article it must conform to conditions established by the location permit i.e. by a detailed management plan.

(4) The Minister shall prescribe the minimum number and professional training of

professional workers on the floating and fixed offshore facilities.

Article 103

As regards determining the suitability for usage according to provisions of Article 102, Point 1 of this Code, provisions of Articles 77 – 82 and 84 – 86 of this Code shall apply accordingly for a certain location and a certain purpose.

2 Tonnage measurement of floating facilities and fixed offshore facilities

Article 104

(1) As regards the tonnage measurement of a floating facility, provisions of Articles 89 to 93 of this Code shall apply, adequately for a certain purpose.

(2) Provisions regarding tonnage measurement shall not apply to fixed offshore facilities.

3 Documents, notes and records of the floating facility and the fixed offshore facility

Article 105

As regards the documents, notes and records of the floating and fixed offshore facility, provisions of Articles 94 – 101 of this Code shall apply, adequately for a certain purpose.

Article 106

(1) A fixed offshore and a floating facility to be positioned in internal waters and the territorial sea of the Republic of Croatia shall be positioned in accordance with the location permit i.e. the detailed management plan.

(2) In the procedure of issuing a location permit or another document from Paragraph 1 of this Article the competent authority must obtain consent of the port authority regarding the safety of navigation.

(3) If the facility from Paragraph 1 of this Article is moored, anchored, positioned or embedded in the port area, in addition to consent referred to in Paragraph 2 of this Article, consent of the authorised port administration must be obtained as well.

Article 107

(1) The floating and fixed offshore facilities are entered into the register of floating facilities and fixed offshore facilities kept by the port authority for facilities located in its area.

(2) Upon request of the facility owner, a facility being constructed in a Croatian shipyard may be entered into the register of floating facilities and fixed offshore facilities.

Article 108

Unless stipulated otherwise, provisions of this Code regarding the registration of ships shall apply to the registration of floating facilities and fixed offshore facilities into the register of floating facilities and fixed offshore facilities.

Article 109

(1) In addition to documents from Article 315 of this Code, authorisation of the competent state administration body and consent of the competent port administration from Article 106 of this Code shall be enclosed to the request for the first registration.

(2) The authorisation and consent from Paragraph 1 of this Article shall be enclosed also in case of any change of the mooring location i.e. facility anchorage.

Article 110

(1) The registration mark of the floating facility and the fixed offshore facility consists of the first two letters taken from the name of the port where the seat of the port authority is located, which had registered the facility and of the number representing the reference number of this facility in the register of floating facilities and fixed offshore facilities.

prijevod: Jasenka Težak Štefanić

(2) The ruling on the registration mark shall be reached by the competent port authority.

Title VII

BOAT AND YACHT

1 Establishing the seaworthiness of a boat or yacht

Article 111

(1) A boat or yacht is seaworthy within certain areas of navigation and for a specific purpose, if this is in accordance with provisions of this Code, regulations adopted on the basis thereof and the Technical Rules regarding:

1) the safety of human life, boat or yacht and property,

2) the prevention of polluting the maritime environment by oil, damaging substances, waste waters and garbage,

3) the protection of the maritime environment from the damaging influence of the system against hull fouling,

4) the protection at work, accommodations of the crew and others employed on the ship,

5) the prevention of air pollution,

6) the conditions for transporting passengers,

7) the safety of the equipment for handling cargo.

(2) Apart from the requirements from Paragraph 1 of this Article, a boat or yacht is seaworthy also if:

1) the person operating the boat or yacht has an adequate certificate or a training certificate, and if it has at least the minimum number of crew members prescribed on board with adequate certificates, i.e. training certificates that the boat or yacht is required to possess for safe navigation,

2) the accommodations and the number of people on board conform to provisions and requirements stipulated by the documents, records and books, as well as to the approved technical documents of the boat or yacht,

3) the cargo on the facility is loaded, stowed and secured in accordance with provisions and requirements indicated in the documents, records and books, as well as in the approved technical documents of the boat or yacht.

(3) Conditions that a boat or yacht must conform to based on Paragraph 2, point 1) of this Article, as well as the limits of navigation for boats and yachts shall be prescribed by the Minister.

(4) The minimum requirements a boat or yacht, its equipment and installations must comply with in order to provide the appropriate medical care to crew members, as well as the equipment and the compulsory contents of the on-board pharmacy for boats and yachts shall be prescribed by the minister in charge of health with the consent of the Minister.

Article 112

(1) The seaworthiness, according to provisions of Article 111, Paragraph 1 of this Code is established by technical supervision and certified by issuing the appropriate documents, notes and records.

(2) Technical Rules are adopted by the Minister.

(3) The seaworthiness of a boat or yacht is verified by inspection, in accordance with provisions of Article 111 of this Code.

Article 113

prijevod: Jasenka Težak Štefanić

(1) A legal or natural person intending to construct a boat or yacht must submit a construction report before the beginning of construction to the recognised organisation, the competent authority or the competent port authority or its branch office authorised to conduct construction supervision.

(2) Technical supervision for boats used for economic and public purposes and for yachts longer than 24 m encompasses:

1) approval of the technical documents on the basis of which the boat/yacht is being built (or reconstructed),

2) individual or type approval of machinery, installations and equipment to be built into the boat/yacht,

3) supervision of the material, machinery, equipment and installations production which are intended to be installed on the boat/yacht in the manufacturer's workshops,

4) approval of the manufacturer and service companies,

5) supervision of the hull construction and the installation of machinery, equipment and installations on the constructor's premises,

6) inspection of the existing boats and yachts.

(3) Technical supervision of boats for sport and recreation and yachts up to 24 m long encompasses:

1) the conformity assessment for boats or yachts during their construction at the constructor’s premises,

2) inspection of the existing boats and yachts.

(4) Inspection of the construction for maritime craft from Paragraph 2 of this Article is conducted by a recognised organisation.

(5) The conformity assessment during construction for waterborne craft from Paragraph 3 of this Article is conducted by a recognised organisation.

(6) The conformity assessment during construction for boats for recreation, constructed for personal needs is conducted by a port authority or its branch office.

(7) A port authority or its branch office is entitled to, if it deems this necessary, confide the conformity assessment during construction to a competent authority.

(8) The conformity assessment during construction for a yacht constructed for personal needs is conducted by the competent authority.

(9) Inspections of the existing yachts are conducted by a recognised organisation.

(10) Inspections of the existing boats are conducted by a port authority or its branch office.

(11) The scope, conditions, rights and obligations from the authorisation for conducting technical supervision and the issuing of ship’s documents, notes and records are established by a contract on the transfer of authority between the Ministry and the recognised organisation, in accordance with a special act and the internationally adopted norms.

Article 114

Inspections of the boats and yachts may be: initial, regular and occasional.

Article 115

(1) An initial inspection is an obligatory inspection an existing boat or yacht must undergo before the initial usage of this boat or yacht at the time of:

1) its entering into the boat ledger or the register of yachts,

2) an alteration of the assigned purpose of the boat or yacht, its limits of navigation or other properties to which the provisions of Technical Rules apply.

prijevod: Jasenka Težak Štefanić

(2) The initial inspection shall not include the testing of construction, equipment and installations of the boat or yacht encompassed by a document on technical supervision during construction, issued by the recognised organisation or a competent authority.

Article 116

The regular inspections are obligatory inspections of an existing boat or yacht at intervals prescribed by the Technical Rules.

Article 117

(1) An occasional inspection is an obligatory inspection an existing boat or yacht must undergo:

– after an accident or when defects have been found that may influence the seaworthiness of a boat or yacht,

– during repairs or remodelling parts of the boat or yacht,

– when regular inspections have been postponed in compliance with provisions of the Technical Rules,

– when the boat or yacht has been laid up for more than one year,

– when the vessel's assigned purpose or area of navigation has been temporarily altered.

(2) The person operating a boat or yacht which has had a maritime accident must report this maritime accident to the port authority or its branch office in the way and the time period prescribed.

2 Tonnage measurement of a boat or yacht

Article 118

(1) Tonnage measurement of a boat or yacht is conducted for the purpose of establishing their tonnage.

(2) Tonnage measurement of a boat or yacht is conducted in accordance with Technical Rules.

(3) Tonnage measurement of a boat or yacht is conducted by an authority in charge of conducting the initial inspection of a boat or yacht.

(4) Tonnage measurement of a boat or yacht is conducted before their entry into the boat ledger or the register of yachts.

Article 119

(1) Tonnage remeasurement of a boat or yacht is conducted if:

1) following tonnage measurement of a boat or yacht alterations have occurred in the distribution, design, capacity, use of space, the number of passengers permitted on board a boat or yacht, the assigned freeboard or the permitted draft of the boat, causing an alteration of the tonnage on the boat or yacht,

2) there is suspicion about the correctness of the tonnage measurement already conducted.

(2) In cases of tonnage remeasurement, and in compliance with provisions from Paragraph 1, Point 1) of this Article, and depending on the alterations conducted on a boat or yacht, the tonnage remeasurement must be carried out either entirely or partially.

3 Documents, notes and records of a boat or yacht

Article 120

(1) The documents, notes and records which boats and yachts must be in possession of serve as proof of identity, seaworthiness and other properties.

(2) A certificate of registration shall be issued for a yacht entered into the register of

yachts.

(3) Provisions of Articles 97 - 100 of this Code shall apply accordingly to the form, contents and the procedure of issuing certificates of registration and temporary certificates of registration.

Article 121

(1) The documents, notes and records prescribed by this Code must be written in the Croatian language and in the Latin script.

(2) The documents, notes and records issued for boats and yachts in international navigation must also include an English translation.

Article 122

The documents, notes and records prescribed by this Code must be on board a boat or yacht and available for inspection at all times.

Article 123

The procedure of issuing documents, notes and records, as well as their contents and types of documents, with the exception of those prescribed by Technical Rules are adopted by the Minister.

Article 124

The document on the seaworthiness of a boat or yacht issued by a foreign state is recognised on terms of reciprocity.

Title VIII

SHIP CREW

1 Common Provisions

Article 125

(1) The ship crew consists of the captain and other persons embarked to do work on board and registered on the crew list.

(2) When boarding a ship in international navigation a crew member must be in possession of a concluded employment contract in writing.

Article 126

(1) Within the meaning of provisions of this Title of the Code, a ship in international navigation is a ship sailing from a Croatian port to a foreign port or vice versa, or between foreign ports, or sailing in the open sea or in the territorial waters of other countries in order to offer services pertaining to activities in the open sea like exploration and exploitation of energy sources and the like.

(2) A ship in public transport on a coastal liner service sailing between Croatian and foreign ports shall not be considered as a ship in international navigation.

Article 127

(1) An employer may conclude several consecutive contracts on temporary employment with a crew member in international navigation based on which the employment shall be established for the same tasks in an uninterrupted period lasting longer than the period established by the general employment regulations.

(2) A crew member on a ship of Croatian nationality in international navigation is may receive the salary and other income he is entitled to based on employment contracts and/or collective agreements for sailors, or noncontractually in a foreign currency.

Article 128

prijevod: Jasenka Težak Štefanić

(1) A crew member in international navigation is liable to income tax payment, based on earnings from work aboard a ship in international navigation and to the payment of contributions for all compulsory insurances.

(2) Registration and cancellation of pension and health insurance for a crew member in international navigation is completed by the employer, i.e. the ship operator.

Article 129

(1) The monthly basic rate for calculating contributions from Article 128, Paragraph 1 of this Code is the salary the crew member would earn for the same or similar tasks on a ship in national navigation, which is determined by the Minister in a special regulation.

(2) The amount of the sailing bonus for a crew member in international navigation not included in the taxable amount of income is determined by the Minister in charge of finances.

(3) The employer is exempt from the obligation of paying taxes, surcharges, contributions and other payments for a crew member in international navigation.

Article 130

(1) The ship must have a prescribed number of crew members with adequate certificates of qualifications and additional training certificates for all tasks ensuring safe navigation.

(2) The minimum number of crew members needed for safe navigation for all ships of Croatian nationality shall be prescribed by the Minister.

Article 131

(1) A crew member on a ship of the Croatian mercantile marine engaged in tasks safeguarding navigation shall be a person of adequate age and of an adequate vocational experience, with an appropriate certificate of qualifications for performing the tasks on board, as well as a deck or engine trainee.

(2) The occupations of crew members in the Croatian mercantile marine shall be acquired through an adequate examination for a particular occupation.

(3) In addition to a certificate of qualifications for certain occupations referred to in Paragraph 1 of this Article, crew members may also obtain additional training certificates.

(4) Additional training certificates referred to in Paragraph 3 of this Article shall be obtained by passing an adequate examination.

(5) A certificate of qualifications for conducting tasks on board shall be issued only to a person physically and mentally fit to complete the tasks on board, not addicted to drugs or alcohol, all of which shall be determined by medical examinations and periodical check-ups.

(6) The procedure, conditions, scope and contents of determining medical capability of crew members on board ships shall be prescribed by the minister in charge of health with consent of the Minister.

Article 132

(1) The training of sailors for purposes of obtaining certificates on qualifications from Article 131 of this Code shall be conducted by marine studies colleges based on rulings issued by the Ministry entrusting these institutions with training.

(2) The education of sailors for purposes of obtaining certificates on qualifications from Article 131 of this Code shall be conducted by a marine studies college authorised for this by special regulations and with consent of the Ministry.

(3) If it has been established that a marine studies college does not fulfil the requirements based on which a ruling on entrusting it with training has been issued to it or an authorisation to educate sailors or if any other irregularity in the operation of the marine studies college has

been established, the ruling entrusting it with training or authorisation for the education of sailors shall be revoked before its expiration.

(4) The conditions and procedure for acquiring certificates on qualifications and additional training certificates of sailors, as well as conditions for verifying training or issuing authorisations to marine studies colleges for the education of sailors, as well as authorisation fees to conduct the training for sailors shall be prescribed by the Minister.

Article 133

The captain and a crew member shall conduct the work on board a ship, yacht or boat in compliance with their duties prescribed by this Code, other regulations and rules of navigation, as well as with other regulations adopted on the basis of this Code in the field of the safety of navigation, the protection of human life at sea and the protection of the maritime environment.

Article 134

(1) The captain and a crew member of a ship, yacht or boat shall not be under the influence of alcohol and/or narcotic substances modifying his consciousness, nor sick or excessively exhausted.

(2) The captain and a crew member of a ship, yacht or boat shall not have more than 0.5 g/kg of alcohol in his blood while performing tasks on a ship, yacht or boat.

(4) If an inspector authorised for the safety of navigation in the port authority or another person authorised for supervising the safety of navigation determines that circumstances described in Paragraphs 1 and 2 of this Article have occurred, the inspector shall, as a precautionary measure, order the captain of a ship or yacht or the operator of a boat to suspend the crew member of the ship, yacht or boat immediately, for a period not longer than 8 days.

(4) If it has been established that the captain of a ship or yacht or the operator of a boat is under the influence of alcohol or narcotic substances or other substances modifying consciousness, the inspector, or another person authorised to supervise the safety of navigation shall immediately, as a precautionary measure suspend the commander of a ship or yacht or the operator of a boat from his duties, for a period not longer than 8 days and inform the ship operator i.e. the boat owner of this.

(5) If due to suspension from service of a captain or crew member the ship, yacht or boat does not conform to conditions pertaining to the minimum number of crew members required for safe navigation, the inspector authorised for the safety of navigation or another authorised person shall prohibit the ship from sailing out.

(6) Provisions of Paragraphs 1 – 5 of this Article shall apply to crew members of all other maritime craft and pilots.

Article 135

(1) A crew member shall not leave the place and premises of his assigned watch while on duty without the permission of the officer on duty.

(2) The watch officer shall not leave the place of his assigned watch while on duty without the permission of the captain.

(3) The procedure of conducting tasks from Article 133 of this Code, as well as conditions, the procedure and other issues regarding the watch conducted by crew members on ships shall be prescribed by the Minister.

Article 136

(1) In areas of heavy traffic, in conditions of limited visibility and in any other dangerous

navigational situation, when automatic steerage is used, the officer on duty and the helmsman must have the possibility to directly take over the steering of a ship.

(2) The switch from automatic to hand steering and vice versa shall be carried out in person by the watch officer on duty on the bridge.

Article 137

(1) Only a person in possession of a seaman book or an embarkation permit may board the ship as its captain or crew member.

(2) The seaman book is a document showing the crew member's health competence, capacity in which the crew member has signed on and the time of his service on board.

(3) The seaman book and permit to sign on shall be considered as identity papers of the person for whom they have been issued.

(4) The seaman book issued by the competent port authority shall also be used as a passport, thus authorising the person to be a crew member of a ship sailing abroad and to travel abroad to board a ship or to return to the Republic of Croatia after disembarking from a ship in a foreign country.

(5) The conditions, procedure for issuing, contents, forms and competence of port authorities pertaining to issuing seaman books and permits to board are prescribed by the Minister.

Article 138

If a crew member has been discharged from a ship during his employment on board or after its termination outside his port of boarding, the ship operator must ensure his return to his place of residence; if the ship operator fails to do this, the return journey to his place of residence shall be secured by the diplomatic or consular office of the Republic of Croatia at the expense of the ship operator from whose ship the crew member has been discharged.

Article 139

(1) The costs of the crew member's return journey shall be borne by the ship operator.

(2) The ship operator shall have the right to the reimbursement of expenses from the crew member regarding his return journey, when has left the ship without authorisation, causing his termination of employment, or if he has left the ship as a consequence of a self-inflicted injury or illness caused intentionally or by gross negligence.

(3) The expenses for a return journey of a crew member of a ship shall encompass expenses for accommodations, food and transportation of the crew member from the time of his discharge from the ship to the time of return to his place residence.

Article 140

(1) The return journey shall be considered as provided also if an adequate task has been ensured to the crew member on a ship bound for his port of boarding.

(2) In cases from Paragraph 1 of this Article, a crew member is entitled to payment for the tasks completed on board.

Article 141

Provisions of Articles 137, 138, 139 and 140 of this Code shall apply also to foreigners employed as crew members on Croatian ships.

Article 142

In foreign ports a crew member being the citizen of the Republic of Croatia may, in order to protect his employment rights and interests, contact the diplomatic or consular offices of the Republic of Croatia.

prijevod: Jasenka Težak Štefanić

Article 143

(1) A crew member shall without delay inform the captain, or the officer on duty:

1) regarding any extraordinary event likely to endanger the safety of the ship, passengers, other persons or cargo on board or pollute the environment with oil, dangerous chemicals and noxious materials from the ship,

2) if, when sailing on navigable waterways in the internal waters and the territorial sea of the Republic of Croatia, he finds that particular lighthouses, beacons and other navigation devices are out of order or the marks or buoys are not in their positions.

(2) The captain shall without delay inform the competent port authority about the malfunctions referred to in Paragraph 1 Point 2) of this Article.

(3) In case of danger, shipwreck or other distress the crew members of the ship shall do their best to save the ship, passengers, other persons on board and cargo, as well as protect the environment until the captain issues the order to abandon the ship.

(4) The procedure for conducting meteorological services on board shall be prescribed by the Minister.

Article 144

(1) The ship operator shall compensate the crew member for any damages caused to his personal belongings on board destroyed or damaged on the occasion of shipwreck or any other distress on board.

(2) In case of shipwreck the crew member in the ship operator's employment is entitled to compensation for every day of the actual duration of his unemployment to the amount of pay due to him according to the contract, however the total amount of the compensation to be paid to him shall not exceed the amount of his two-month pay.

(3) Provisions of Articles 138 - 141 of this Code shall also apply to the return journey of a crew member who suffered a shipwreck.

Article 145

(1) Any damages caused by physical injury or death of a crew member or due to health impairment which a crew member suffers while working or in relation to his employment on board shall be the responsibility of the ship operator unless the latter provides evidence that damages have occurred to no fault of his.

(2) The ship operator shall be held liable for damages referred to in Paragraph 1 of this Article caused by a dangerous material or by dangerous activities according to general regulations concerning liability for damages caused by dangerous materials or dangerous activities.

(3) The ship operator shall be liable for damages referred to in Paragraph 1 of this Article that the crew member has suffered at work or in connection with the work on board due to the non-existence of conditions for safe work unless he provides evidence that the crew member has caused the damages intentionally or by gross negligence.

(4) The ship operator, manager, company and employer are jointly and severally liable for damages from Paragraphs 1, 2 and 3 of this Article.

2 Captain

Article 146

(1) The crew and all other persons on board the ship shall be under the command of the captain.

(2) The captain shall be a citizen of the Republic of Croatia.

prijevod: Jasenka Težak Štefanić

(3) The captain shall be appointed and relieved by the company.

(4) In case of death, prevention from exercising duties, or absence of the captain, his place with all his competence shall be taken by the highest ranking crew member of the deck department, i.e. another immediately subordinate deck officer who is a citizen of the Republic of Croatia.

(5) Provisions of Paragraph 2 of this Article shall not apply to a yacht of a foreign owner registered with the Croatian register of ships.

Article 147

(1) The captain shall be responsible for the safety of the ship and the order on board and shall have, within the limits prescribed by this Code and other regulations, public authority on the ship and shall represent the company.

(2) If a skipper of the foreign yacht registered in the Croatian register of ships is a foreign natural person, the representative of public authority referred to in Paragraph 1 of this Article shall be a crew member if he is a citizen of the Republic of Croatia or if his residence is in the Republic of Croatia.

Article 148

(1) The captain shall attend to the provision of the ship's supplies, administration, its maintenance, the maintenance and good condition of the hull, machinery, installations and equipment of the ship, of maritime navigation charts and publications, of the safety of the ship's equipment for the embarkation and disembarkation of passengers and the handling of dangerous and other cargoes, of the correct loading, stowage, transport and unloading of the cargo, the correct embarkation, accommodation and disembarkation of passengers, and of the performance of any tasks in connection with the work process.

(2) The captain shall, within the prescribed periods of time, carry out boat drills and exercises with other life-saving means and with devices for detecting, preventing and fighting fires.

(3) The captain shall be on board during the time of navigation.

(4) Before the beginning of the voyage the captain shall check the good condition of the ship and the amount of supplies sufficient to make the anticipated voyage possible and shall ensure that all the prescribed documents and records, updated navigation charts and publications as well as crew members are on board, and when transporting passengers – to establish in particular whether all measures for the safety of passengers have been undertaken.

Article 149

(1) The captain or the deck officer on duty in charge of navigating the ship shall undertake any measure essential for the safety of the ship and navigation.

(2) The captain shall be in command of the ship in person whenever this is required by the safety of the ship, and particularly when the ship enters a port, channel or river or leaves them, as well as when visibility is limited.

(3) The presence of the pilot on board shall not relieve the captain from responsibility for navigating the ship.

Article 150

(1) In the event of incidents endangering the ship or the persons on board, the captain shall undertake every possible measure for the rescue of persons and the elimination of danger to the ship and the objects on board, as well as for environment protection.

(2) If, in the case referred to in Paragraph 1 of this Article, it is necessary to sacrifice the ship or damages the cargo or other objects on board, the captain shall sacrifice or damages the

cargo, other objects or the installations or equipment on the ship not essential for navigation, or parts of the ship the sacrifice or damages of which will cause less damages to the ship operator and persons interested in the cargo on board the ship.

Article 151

(1) If, in the event of danger to the ship, every measure taken to save the ship has remained futile, and if the loss of the ship is unavoidable, the captain shall first undertake measures for the rescue of passengers and other persons on board, remove the ship before its sinking from the navigable waterway in the internal waters if possible, and issue the order to abandon ship.

(2) In the case referred to in Paragraph 1 of this Article the captain shall take every measure necessary to save the ship logbook, and if the conditions of the event permit it, also measures to save other ship records, documents, sea charts of the voyage in question, and cash from the ship safe box.

(3) The captain shall abandon the ship only when he has, within the limits of actual possibilities, taken every measure referred to in Paragraphs 1 and 2 of this Article.

Article 152

(1) In case of an event on board endangering the safety of the ship or of navigation, or in case of an exceptional incident occurring to the ship, passengers, other persons, cargo or objects on board, or if pollution by oil, dangerous chemicals and noxious materials on the navigable waterway has been noticed, the captain shall enter a description of the event or a remark regarding the pollution of the navigable waterway into the ship logbook without delay, and no later than within 24 hours.

(2) The captain shall submit a report regarding the event referred to in Paragraph 1 of this Article to the port authority together with the excerpt from the ship logbook immediately upon arrival, and no later than within 24 hours.

(3) If the event referred to in Paragraph 1 of this Article occurs during navigation, the captain shall submit the report on the event, together with the excerpt from the ship logbook, within the period of time referred to in Paragraph 2 of this Article to the port authority at the ship's first port of call, or to the diplomatic or consular office of the Republic of Croatia if the ship is in a foreign country.

(4) The captain shall enter into the ship logbook the birth and death of any person on board, indicate the place, geographical position of the ship and the time of birth or death, and take the last will statement and enter it into the ship logbook, indicating the time when the last will statement has been taken.

(5) The captain shall prepare a written report in the form prescribed regarding the fact of birth or death and on the taking of the last will statement, then submit it to the competent authority at the first domestic port of call, and in a foreign country to the nearest diplomatic or consular office of the Republic of Croatia.

(6) Procedures regarding birth or death, discovery of an abandoned infant, taking last will statements and procedures pertaining to the property of persons deceased on board shall be prescribed by the Minister.

Article 153

(1) The captain shall radio the information regarding any immediate danger to the safety of navigation he comes across, particularly when he notices any changes on the navigable waterway referred to in Article 143, Paragraph 1, Point 2) of this Code, when he notices pollution by oil, dangerous chemicals or noxious materials, dangerous ice, perilous gale or any other immediate danger to navigation, or a tropical storm, air temperature below freezing

accompanied by winds of gale force causing heavy accumulation of ice on the deck erections, or a wind the force of ten or more on the Beaufort scale for which no gale warning has been received.

(2) The captain shall make a note of the information transmitted from Paragraph 1 of this Article into the ship logbook.

Article 154

(1) If an accident occurs to the ship or if a defect has been discovered that has an influence upon:

1) the safety or the safety protection of the ship, or the efficiency or integrity of the lifesaving devices or other equipment,

(2) the integrity of the ship, or the efficiency or integrity of the equipment for environmental protection from pollution by oil, dangerous chemicals and noxious liquid materials,

the captain or the ship operator shall as soon as possible inform the recognised organisation, which will initiate the procedure of establishing whether an adequate inspection of the ship is required.

(2) If the ship is in the port of another state signatory the corresponding international convention, the captain or the company shall also inform the adequate bodies within the maritime administration of the state in whose port the ship is located without delay.

(3) The captain or the company shall by the fastest telecommunications connection inform the maritime administration of the nearest coastal state of the event in connection with the leakage or possible leakage of oil, noxious liquid matter or release of noxious packaged materials.

Article 155

(1) In case of the imminent threat of war, the captain shall take every precaution that appears to be essential, particularly with the view to save the ship, its crew, passengers, cargo and other property, as well as the ship's documents and records.

(2) If a state of war occurs between the Republic of Croatia and another state, the captain shall take all necessary measures to protect the ship, people, cargo and other property, as well as the ship's documents and books from the enemy.

(3) If, in case the state of war occurs between other states in which the Republic of Croatia is neutral, the ship is located in a port of a state at war, or heading for a port of a state at war, or has to pass through the internal waters or territorial sea of a state at war, the captain shall ask the ship operator for instructions; if this is not possible – he shall request instructions from the competent Croatian authorities.

Article 156

(1) The captain, representing the ship operator, is authorised to conclude salvage agreements and conduct legal activities indispensable for the completion of the voyage, in the latter's name and for his account outside of the place being the ship operator's seat, and at a place outside the ship operator's seat where an authorised representative of the ship operator does not exist, conclude maritime navigation contracts, with the exception of a time charter for the whole ship.

(2) The captain is authorised, as the ship operator's representative, to initiate proceedings with foreign court and administrative authorities with the intention of protecting the ship operator's rights and interests in operations referred to in Paragraph 1 of this Article, and to undertake procedural activities in these proceedings.

prijevod: Jasenka Težak Štefanić

(3) If the ship operator places restrictions on the legal authority of the captain, these restrictions shall have no legal effect on third parties who neither knew nor ought to have known of them under the circumstances.

Article 157

(1) The captain is authorised and under the obligation to issue orders to all persons on board pertaining to the safety of the ship and its navigation, and to maintaining the order on board, and to supervising the distrainment of the orders given.

(2) In order to maintain order and safety on board, the captain may keep the necessary firearms on board, while the crew shall not be in possession of weapons on board.

Article 158

(1) It is within the captain's authority to restrict the freedom of movement on board during the voyage to any person who seriously endangers the safety of the ship, of the crew members and other persons, of the objects on board and the environment by oil pollution, dangerous chemicals or noxious materials.

(2) The freedom of movement shall be restricted only if this is imperative for the safety of the passengers, of other persons and objects on board or for environment protection, and shall for a foreign citizen last no longer than to the ship's arrival at the first port, and for a citizen of the Republic of Croatia no longer than to the arrival of the ship at the first Croatian port.

(3) Measures referred to in Paragraphs 1 and 2 of this Article shall be recorded with an explanation into the ship logbook.

Article 159

It is within the competence of the captain to suspend from work a crew member who endangers the safety of navigation, and if circumstances so require to disembark and repatriate him.

Article 160

(1) The captain has the right, in case of an emergency and for its duration, to reduce the ration of food and water for all the persons on board in order to rationalise the use of the existing food and water supplies on board.

(2) Measures referred to in Paragraphs 1 and 2 of this Article shall be entered into the ship logbook with an explanation.

Article 161

(1) When in the course of the voyage a crew member, passenger or any person on board commits a criminal offence, the captain shall, according to circumstances, take the measures necessary to prevent or mitigate the occurrence of harmful consequences of this offence and hold the perpetrator responsible.

(2) If there is risk that the perpetrator may repeating the offence or escape, the captain shall order: to have the perpetrator's freedom of movement on board restricted or have him arrested; that by interrogating the perpetrator, and by statements of witnesses, eye-witnesses and injured parties all circumstances under which the offence has been committed should be established as well as the resulting consequences; to have minutes taken during every hearing; to have the objects with which or on which the offence has been committed retained as evidence, i.e. those where marks of the offence committed are visible, and to undertake other measures in order to establish the circumstances under which the criminal offence has been committed.

(3) If the ship is in a foreign country, the captain shall submit a report on the criminal offence committed to the diplomatic or consular office of the Republic of Croatia in the state

whose port the ship has entered. The captain shall treat the perpetrator of the criminal offence in compliance with the instructions of the diplomatic or consular office of the Republic of Croatia.

(4) After arrival to the first Croatian port the captain shall hand over the perpetrator of the criminal offence to the internal affairs authority in that port with a written report on the criminal offence committed, with the minutes and objects referred to in Paragraph 2 of this Article.

(5) Measures referred to in Paragraphs 2 and 4 of this Article shall be recorded with an explanation into the ship logbook.

Article 162

(1) If any member of the ship crew arbitrarily abandons the ship in a port, the captain shall report this abandonment of the ship to the port authority.

(2) The captain shall take minutes and establish which objects and documents belonging to the crew member who has arbitrarily abandoned the ship have been left on board. The minutes shall be taken in the presence of two witnesses, and signed by the captain and the witnesses.

(3) The captain shall enter a remark into the ship logbook regarding an arbitrary abandonment of the ship and regarding objects of the crew member left on board, as well as about their delivery to the competent Croatian authority.

(4) The authority in the port to which the personal belongings and documents of the crew member who has arbitrarily abandoned the ship have been submitted shall deliver them to his immediate family members or his parents, and if this is not possible to the person appointed by the competent guardianship authority.

Article 163

(1) A crew member shall be considered as having arbitrarily abandoned the ship if he is not back on board by the time of the ship's departure from port.

(2) If a crew member has been prevented from returning to the ship by the time of the ship's departure from port, he shall be considered as having arbitrarily abandoned the ship if he does not report to the authority referred to in Article 162, Paragraph 1 of this Code within three days from the date when the hindrance has been removed.

Article 164

The competent courts to conduct all proceedings between a crew member and the ship operator or the manager or the company, and between the captain and the ship operator or the employer or the company shall be commercial courts authorised for maritime proceedings.

Title IX

INSPECTION

Article 165

(1) Inspection of the implementation of provisions from this section of the Code, and of the regulations pertaining to the safety of navigation and the protection of the maritime environment adopted on the basis of this Code shall be carried out by the safety of navigation inspectors from the Ministry and port authorities.

(2) The tasks of the safety of navigation inspection may also be carried out by specialists of the Ministry and of the port authority within a special authorisation issued by the Minister.

(3) The qualifications, exams and other special requirements a safety of navigation inspector must have, as well as the form of the identification card of a safety of navigation

inspector shall be prescribed by the Minister. (4) Inspection of the implementation of provisions from Article 76, Paragraph 4 and Article 111, Paragraph 4 shall be conducted by the pharmaceutical inspection.

Article 166

(1) Inspectoral duties relating to the inspection of implementing provisions of this section of the Code concerning the safety of navigation particularly include the inspection of:

1) foreign ships in Croatian ports,

2) Croatian maritime craft with regard to their seaworthiness or suitability for usage,

3) the distrainment of the international regime of ports in conformity with the international obligations of the Republic of Croatia regarding their wharves and other waterfronts, breakwaters, required depths, equipment, installations and other facilities intended for the anchoring and sheltering of ships, as well as for the embarkation and disembarkation of passengers and objects, and the existence of equipment intended for collecting oiled waters, oil remains and garbage from the ship,

4) the maintenance and marking of the navigable waterways in the territorial sea and the internal waters and facilities for the safety of navigation in these navigable waterways,

5) the functioning of the radio service for the safety of navigation and protection of human life at sea, as well as its installations and equipment, of maintaining the facilities and of the operation of the services mentioned,

6) navigation and piloting,

7) the construction of facilities in the territorial sea and internal waters or on their shores with regard to their influence on the safety of navigation,

8) the transport of persons and objects with regard to the protection of human life and property,

9) the protection of the sea from pollution by ships,

10) the operation of the meteorological service on board intended for the safety of navigation.

11) the conditions of sailors' life and work on board

Provisions of Paragraph 1, Point 3) of this Article shall not apply to naval ports.

(3) The procedure for conducting the safety of navigation inspection while conducting inspection shall be prescribed by the Minister by a special regulation.

Article 167

(1) Inspection of foreign ships in the ports of the Republic of Croatia shall be conducted in compliance with the procedures established by the Paris Memorandum of Understanding on Port State Control.

(2) While performing inspection of a foreign ship, in accordance with provisions of Article 166, Paragraph 1, Point 1) of this Code, it shall be established whether the ship is in possession of valid documents with regard to provisions of:

1) the International Convention for the Safety of Life at Sea,

2) the International Convention on Loadlines,

3) the International Convention for the Prevention of Pollution from Ships,

4) the International Convention on the Standards of Training, Certification and Watchkeeping for Seafarers.

5) the International Convention Concerning Minimum Standards on Merchant Ships,

6) the Convention on International Regulations for Preventing Collisions at Sea,

7) the International Convention on Civil Liability for Oil Pollution Damages,

8) the International Convention on the Tonnage Measurement of Ships.

(3) If the state whose flag the ship flies is not bound by conventions referred to in Paragraph 2 of this Article, the inspector shall examine whether the ship, in regard to its construction, equipment, crew, type, quantity and stowage of cargo, number of passengers and total load, can safely make the intended voyage.

(4) When examining the ship's seaworthiness referred to in the Paragraph 3 of this Article consideration shall be taken primarily, but not exclusively, of the provisions from conventions referred to in Paragraph 2 of this Article.

(5) The inspection of a foreign ship shall establish whether the crew and the entire condition of the ship, including the engine room, the crew accommodation area and the hygienic conditions on board conform to regulations and standards established by international conventions from Paragraph 2 of this Article.

Article 168

(1) If the inspection has established that the foreign ship does not have the valid documents as referred to in Article 167 of this Code, or that the position of the loadline or the freeboard does not correspond to the data stated in these documents, or that the ship is not loaded in conformity with the given loadline or the freeboard line, or that the cargo is not evenly trimmed, the ship shall be prohibited from leaving port until it is rendered fit to proceed on the voyage without endangering the human lives on board.

(2) If the inspection has established that a foreign ship, due to its defects pollutes the surroundings by oil, dangerous chemicals or noxious materials, or that its slop tanks are full, or its installations out of order, the ship shall be prohibited to leave port until the defects on it have been eliminated.

(3) If the inspection conducted according to provisions of Article 167 of this Code has established that the foreign ship does not have valid documents providing evidence of good working order of the ship’s equipment ship's for loading and unloading cargo, or if it has been found that the condition of this equipment does not conform to the data stated in the documents, the loading and unloading of the cargo with the ship's equipment shall be prohibited.

(4) If the inspection has established defects referred to in Paragraphs 1, 2 and 3 of this Article, the competent authority of the state whose flag the ship flies and the International Maritime Organisation shall be informed of the inspection results through diplomatic or consular authorities.

(5) In addition to measures from Paragraphs 1, 2, 3 and 4 of this Article other measures specified in the Paris Memorandum of Understanding on Port State Control may be undertaken.

(6) Provisions of Paragraphs 1 – 5 shall apply accordingly to ships whose flags are not bound by the above conventions.

Article 169

(1) If there is justified reason to doubt that the condition of the foreign ship does not correspond to the data stated in the documents referred to in Article 167, Paragraphs 1 and 2 of this Code, or that the foreign ship has taken aboard more passengers than permitted, or that it does not have the minimum number of qualified crew members, and that it is obvious that the ship in this condition or with such a number of passengers and this condition of the crew is not fit to proceed on the voyage without endangering the human lives on board, the ship shall

be prohibited from leaving the port until it is in a position to continue the voyage without endangering the human lives on board.

(2) The inspection procedure pertaining to a foreign ship from Paragraph 1 of this Article, as well as measures undertaken relating to the foreign ship shall be conducted in accordance with provisions of the Paris Memorandum of Understanding on Port State Control.

Article 170

In conducting inspection of the seaworthiness of maritime craft in compliance with the provisions of Article 166, Paragraph 1, Point 2) of this Code, the following shall be verified:

(1) whether the maritime craft is in possession of the valid documents and records prescribed,

2) whether the vessel in possession of an adequate financial guarantee from Article 820 of this Code,

3) whether from the date of issuing or certifying the documents issued on the basis of a technical inspection such essential changes have occurred on the waterborne craft which make it clear that the waterborne craft is not fit for navigation without endangering the persons and cargo aboard, as well as the environment,

4) whether the maritime craft conforms to requirements specified in Articles 76, 102 and 111 of this Code,

5) whether the prescribed loadline mark or freeboard line has been indicated on the sides of the waterborne craft,

6) whether skills of the crew in handling lifeboats and other lifesaving equipment and fire detecting, preventing and extinguishing appliances is adequate.

(2) The inspection also encompasses the verification of whether the waterborne craft is in possession of a valid cargo equipment register, and whether the condition of the cargo handling equipment corresponds to the data given in the cargo equipment register.

Article 171

(1) If the inspection conducted according to provisions of Articles 167 and 170 of this Code has established defects in the seaworthiness of the ship, the captain shall be ordered to eliminate the defects established in a certain period of time.

(2) When the defects found have not been eliminated within the given time, or if they are of such nature as to endanger the safety of the ship, persons and cargo on board as well as the environment, or if its slop tanks are full, the ship shall be prohibited from further navigation until these defects have been eliminated, and the ship documentation pertaining to seaworthiness shall be repossessed.

(3) If the inspection conducted according to provisions of Article 170 of this Code has established that the ship is not in possession of a valid cargo equipment register, or that the condition of this equipment is not in compliance with the cargo equipment register, the ship shall be prohibited from loading, unloading or transhipping cargo with its own cargo handling equipment.

(4) Inspection referred to in Articles 170 and 171 of this Code may be conducted outside of the internal waters and the territorial sea of the Republic of Croatia when it has been assessed that there is reasonable doubt that the actual condition of a vessel does not correspond to its documentation and records issued, or when the vessel does not intend to sail into a port of the Republic of Croatia before the expiry of such documents and records.

(5) In conducting inspection from Articles 170 and 171 of this Code, the safety of navigation inspector may demand from the recognised organisation to hand over documents

pertaining to the process of issuing certificates for the ship inspected.

(6) If the captain does not comply with inspector's orders as indicated in Paragraphs 2 and 3 of this Article, the inspector shall, once this ruling becomes distrainable, prohibit further navigation by an arrest or in another appropriate manner, as well as the loading, unloading or transhipping of cargo by the vessel's own cargo handling equipment.

(7) Provisions of Articles 170 and 171 of this Code shall apply accordingly to the floating facilities and the fixed off-shore facilities.

Article 172

(1) When the inspection conducted according to provisions of Article 166, Paragraph 1, Point 3) of this Code has established that in the ports open to international traffic the regime in compliance with the international obligations of the Republic of Croatia or with special regulations determining law and order in ports has not been observed, or that the condition of the ports is such as to endanger the safety of waterborne craft, the company or the authority exploiting the port shall be ordered to undertake adequate measures or to conduct the necessary activities to eliminate the defects determined in a specified period of time.

(2) If the measures and activities ordered in compliance with Paragraph 1 of this Article have not been completed within the time frame given, the safety of navigation inspector shall be entitled to:

1) prohibit the landing of waterborne craft of a given size along part of the wharf or other waterfront which has been found defective until the safe landing of these waterborne craft has been made possible,

2) prohibit the use of a wharf or other waterfront or a part of it, as well as of the anchorage directly endangering the safety of waterborne craft, persons and objects during loading, unloading or transhipping, or if there is danger of environmental pollution due to defective equipment,

3) prohibit traffic in the port and anchorage during the time the safety of navigation is directly endangered as a consequence non-maintenance of the port facilities or the required depths in a serviceable condition.

(3) If defects from Paragraph 1 of this Article directly endanger human lives, the safety of navigation or the environment, the inspector is entitled to immediately proceed with measures from Paragraph 2, Points 1), 2) and 3) of this Article.

Article 173

(1) When the inspection conducted according to provisions of Article 166, Paragraph 1, Point 4) of this Code has established that the condition of the navigable waterway or the facility securing the safety of navigation on this waterway is such as to endanger the safety of navigation, the order shall be issued:

1) to the company in charge of maintaining and marking navigable waterways to temporarily mark the obstacle on the waterway, or to remove it and to install or activate warning signals and beacons if they have been removed or are out of order,

2) temporarily prohibiting navigation if measures for safe navigation have not been undertaken on the navigable waterway.

(2) If the inspection stipulated in Paragraph 1 of this Article establishes additional defects in the navigable waterway which may endanger the safety of navigation, these findings together with remarks and proposals for measures to be taken shall be submitted to the Ministry, to the company in charge of maintaining and marking navigable waterways, and to the Hydrographic Institute of the Republic of Croatia for adequate measures to be taken.

(3) Plovput and the Hydrographic Institute of the Republic of Croatia shall submit annual operation plans and annual reports on the condition of the safety of navigation from their jurisdiction for review to the Ministry.

Article 174

(1) When the inspection conducted according to provisions of Article 166, Paragraph 1, Point 5) of this Code has established that the maintenance of radio stations and the performance of the radio service are not in conformity with regulations, the order shall be given for the defects found to be eliminated within a given period of time, or the work of the radio station to be suspended.

(2) If the inspection stipulated in Paragraph 1 of this Article establishes such defects which may endanger the safety of navigation, a report on the defects established with proposals for their elimination shall be submitted to the Ministry.

Article 175

(1) Consent of the port authority regarding the safety of navigation shall be obtained by the competent authority in the procedure of issuing the location permit for all facilities constructed in the internal waters and the territorial sea, i.e. on their shores.

(2) The safety of navigation inspector shall prohibit the usage, landing, navigation and anchorage in the section of internal waters or the territorial sea and its shores when having established that the safety of navigation has been endangered.

(3) The danger to the safety of navigation shall comprise in particular a change in the sea depth or the configuration of the shore, hindrances to the landing and anchorage of vessels and the like, contrary to or without consent of the port authority from Paragraph 1 of this Article.

(4) The inspector shall inform the construction inspection of measures undertaken as specified by Paragraph 1 of this Article.

Article 176

(1) If the safety of navigation inspector finds that a crew member does not have authority to conduct certain tasks or is not in possession of a valid embarkation document, the inspector shall order the defects found to be eliminated within a given period of time.

(2) If a crew member referred to in Paragraph 1 of this Article does not eliminate the defects found, the safety of navigation inspector shall issue an order to the captain to have this crew member disembarked.

Article 177

If the safety of navigation inspector finds that the ship has embarked a greater number of persons or loaded a larger amount of cargo than permitted, or that the cargo has been stowed so as to endanger the safety of the ship or the persons on board, the inspector shall prohibit its sailing out of the port and further navigation until the defects found have been eliminated.

Article 178

(1) An appeal may be lodged regarding the inspector’s ruling.

(2) The Ministry shall resolve appeals from Paragraph 1 of this Article.

(3) The appeal does not postpone distrainment of the ruling.

Part Four

NATIONALITY, IDENTIFICATION, ENTRY AND DELETION OF SHIPS

Title I

prijevod: Jasenka Težak Štefanić

NATIONALITY AND IDENTIFICATION OF SHIPS

Article 179

(1) A ship or yacht shall acquire Croatian nationality by its entry into an appropriate register of ships or register of yachts, or by the issuance of a temporary certificate of registration.

(2) The Republic of Croatia holds the right and responsibility to conduct supervision of administrative, economic and technical operations on ships and yachts of Croatian nationality.

Article 180

(1) A ship or a yacht which has acquired Croatian nationality shall have the right and duty to fly the flag of the Republic of Croatia.

(2) The right and duty to fly the flag referred to in Paragraph 1 of this Article shall not apply to ships without crew.

(3) When outside of the boundaries of the internal waters and the territorial sea of the Republic of Croatia, boats entered into the boat records (ledger) in the territory of the Republic of Croatia shall fly the flag of the Republic of Croatia.

(4) The procedure for flying the flag and indicating the marks on ships and yachts shall be prescribed by the Minister.

Article 181

The flag of the Republic of Croatia is the sign of Croatian nationality of a ship.

Article 182

The flag of the Republic of Croatia displayed on board a ship shall be identical in form to the flag of the Republic of Croatia, with the ratio of its hoist to its fly being 1 : 1.5.

Article 183

(1) A ship or yacht registered in the Croatian register of ships, with the exception of technical waterborne craft and a ship or yacht which have been issued a temporary certificate of registration, shall bear a name.

(2) A technical waterborne craft, a floating facility and a fixed off-shore facility entered into the appropriate Croatian register or which have been issued a temporary certificate of registry shall have a distinctive mark, and may, in addition to the mark herein, also bear a name.

(3) Two ships or yachts may not bear the same name, and two technical waterborne crafts, two floating facilities or two boats may not bear the same mark.

(4) Rulings on determining names and marks of ships and yachts shall be reached by the Ministry.

(5) The procedure, conditions and steps in determining and assigning distinctive names, marks and signs of ships and yachts, as well as keeping evidence on the names of ships and yachts shall be prescribed by the Minister.

Article 184

(1) A ship and yacht shall bear the name of the port of registry.

(2) The port of registry shall be the port in the area of which the seat of the competent port authority of the Ministry is located (hereinafter: port authority) keeping the register in which the ship or yacht has been entered.

Article 185

A ship, yacht and a boat equipped with a radio device must have a call sign in accordance

with regulations pertaining to international radio communications.

Article 186

A boat shall acquire Croatian nationality by its entry into an appropriate boat ledger.

Title II

ENTRY AND DELETION OF SHIPS AND YACHTS

Article 187

A ship entirely owned by natural or legal persons, citizens of the Republic of Croatia, with residence or business seat in the Republic of Croatia, must be entered into the register of ships, and yachts entirely owned by natural or legal persons, citizens of the Republic of Croatia, with residence or business seat in the Republic of Croatia, must be entered into the register of yachts.

Article 188

(1) The following vessels may be entered into the register of ships:

1) a ship partially or entirely owned by foreign natural or legal persons or citizens of the Republic of Croatia with residence abroad when the operator or the company of such a ship is a Croatian natural or legal person, with residence or business seat in the Republic of Croatia, on the condition that the ship owner has agreed to the request of the Croatian ship operator to enter this ship into the register of ships,

2) a ship partially or entirely owned by a foreign natural or legal person on the condition that this entry has been authorised by the Ministry.

(2) A yacht partially or entirely owned by a foreign natural or legal entity or a citizen of the Republic of Croatia not having residence in the Republic of Croatia may be entered into the register of yachts.

(3) A fee is charged for the registry of ships and yachts from Paragraphs 1 and 2 of this Article and for the entry of ships and yachts from Article 187 of this Code.

(4) The criteria for determining the fee and its amount shall be prescribed by the Minister.

Article 189

(1) A ship under construction, entirely owned by a natural or legal person being a citizen of the Republic of Croatia with residence or a business seat in the Republic of Croatia must be entered into the register of ships under construction.

(2) A ship under construction in a Croatian shipyard and owned by a foreign natural or legal person may be entered into the register of ships under construction.

(3) A yacht entirely owned by a natural or legal person being the citizen of the Republic of Croatia, or having residence or its business seat in the Republic of Croatia, and a yacht owned by a foreign natural or legal person being constructed in a Croatian shipyard may be entered into the register of yachts.

Article 190

(1) When conditions stipulated in Articles 187 or 188 of this Code exist, the owner of a boat transporting cargo may request that the boat or yacht be entered in the register of ships, and the owner of a boat for the transport of people i.e. a boat for sports and recreation may request that the boat be entered into the register of yachts regardless of whether it meets the criteria from Article 5, Paragraph 1, Point 4) or point 20) of this Code, whereupon provisions of this Code pertaining to ships and yachts shall apply to this person, insofar as proprietary rights are concerned.

(2) In the event of entering a boat into the register of ships or yachts as referred to in

Article 188, Paragraph 1, Point 2) or Article 188, Paragraph 2 of this Code, the owner of the boat shall be bound to authorise a Croatian natural or legal person, with residence in the Republic of Croatia, to represent him during his absence from the Republic of Croatia before the competent Croatian authorities.

(3) The competent port authority shall conduct separate records regarding entries from Paragraph 1 of this Article.

Article 191

(1) A ship registered in a foreign register of ships shall not be registered in a Croatian register of ships.

(2) A yacht registered in a foreign register of yachts shall not be registered in a Croatian register of yachts.

(3) A ship older than the maximum permitted age for each type of ship shall not be entered into the Croatian register of ships.

(4) The maximum age permitted for the entry for ships into the Croatian register of ships shall be prescribed by the Minister.

Article 192

(1) A ship shall be deleted from the register of ships when:

1) it has been wrecked or it is presumed wrecked,

2) it no longer meets the requirements set forth in Articles 187 and 188 of this Code,

3) it is permanently withdrawn from service,

4) it has been entered into another Croatian register of ships,

5) this is explicitly authorised by the Ministry,

6) the ship owner so requests, if provisions of the compulsory deletion of ships do not apply.

(2) It shall be presumed that a ship has been wrecked if a period of three months has elapsed since receipt of the last news of the ship. In this case it shall be presumed that the ship or yacht has been wrecked as of the date the last available news regarding this vessel have been received.

(3) Provisions of Paragraphs 1 and 2 of this Article shall apply accordingly to the deletion of a ship under construction from the register of ships under construction, and the deletion of yachts from the register of yachts, i.e. deletion from yachts under construction from the register of yachts under construction.

(4) The owner of the ship or yacht shall have the obligation to submit a request to the port authority to delete the ship from the register of ships, or the yacht from the register of yachts within 15 days from the onset of circumstances from Paragraph 1, Points 1), 2) and 3) of this Article.

Article 193

(1) When mortgage exists on a ship, approval of the mortgage creditors shall be necessary for its deletion from the register of ships.

(2) When the deletion of a ship from the register is compulsory based on this Code, with the exception of cases when this has been approved by the mortgage creditors, the deletion of the ship shall not be completed before a reasonable period of time has elapsed, which shall not be less than three months from the date an adequate notice has been sent to these creditors.

(3) Provisions of this Article shall also apply to ships under construction, yachts and yachts under construction.

prijevod: Jasenka Težak Štefanić

(4) Provisions of this Article shall not apply to the deletion of a ship from Article 192, Paragraph 1, Point 1) of this Code from the register of ships.

Article 194

Provisions of Article 193 of this Code shall not apply to the transfer of the rights of ownership by abandonment in favour of the insurer.

Article 195

(1) Registers from Article 196 of this Code shall be public documents.

(2) Registers from Article 196 of this Code are kept in the form of public records or electronic notes containing the data base for the entire territory of the Republic of Croatia.

(3) Everyone is entitled to review and copy the main register, the document files, the directory of ship owners, and the directory of ships and yachts.

(4) The port authority keeping a register shall issue a certificate to any party who so requests regarding the state of entries in the register and a copy of documents archived in document files, if entries in the register refer to such documents.

(5) Certificates and copies of documents referred to in Paragraph 4 of this Article shall be considered as supportive public documents.

(6) A person who, acting conscientiously in legal matters, relies on data entered in a register of ships shall not bear any legal consequences arising therefrom.

(7) The procedure for keeping the register of ships, the register of yachts, the register of ships under construction, the register of yachts under construction, the register of floating facilities, the register of fixed off-shore facilities, conducting the procedure for EOP entries, the data entered into pages A, B and C of the main register, document files, additional records kept alongside registers and forms of these documents and records, as well as competences of port authorities pertaining to registration shall be prescribed by the Minister.

Article 196

(1) Maritime ships may be registered in the following registers of ships:

- register of merchant ships,
- register of fishing ships,
- register of public ships.

(2) A register of ships under construction exists for ships being constructed.

(3) A register of yachts exists for yachts.

(4) A register of yachts under construction exists for yachts being constructed.

(5) A register of floating facilities exists for floating facilities.

(6) A register of fixed off-shore facilities objects exists for fixed off-shore facilities.

Article 197

Registers from Article 196 of this Code consist of the main register and document files.

Article 198

(1) The main register from Article 196 of this Code consists of inserts.

(2) An insert consists of pages A, B and C.

(3) By way of exception, an insert of the main register of public ships consists only of pages A and B. Every ship or yacht shall be entered into a separate insert.

Article 199

Data regarding the identity of a maritime craft and its main technical characteristics shall be entered into page A of the insert from the main register of a maritime craft.

prijevod: Jasenka Težak Štefanić

Article 200

(1) The company or the name and seat of the legal person or the name and residence of the natural person being the owner of the maritime craft, as well as personal restrictions of the owner regarding free disposal with the maritime craft shall be entered into page B of the insert from the main register of a maritime craft

(2) If the ship operator or the company are not ship owners, the company or the name and seat of the ship operator and the company legal person or the name and residence of the ship owner and the company natural person shall be entered into page B of the insert from the main register of a maritime craft from Paragraph 1 of this Article.

(3) The company or the name and seat or the name and residence of the ship operator and the ordering party may be entered into page B of the insert from the register of ships under construction or that of yachts under construction for recording purposes.

Article 201

Proprietary rights the ship or part thereof is burdened with, and rights acquired on the basis of these rights, charter by demise, time charter for the whole ship, pre-emptive rights and any other restrictions regarding rights of disposing with a burdened maritime craft by which an owner of a burdened maritime craft is bound, the ban on burdening and alienating and all notices for which it has not been explicitly specified that they must be entered in another page of the insert shall be entered into page C of the insert from the main register.

Title III

ENTRY AND DELETION OF BOATS

Article 202

(1) A boat shall be entered into the boat records (ledger) kept by the port authority or its branch office in the area where the residence or the seat of the natural or legal person being the boat owner is located.

(2) By way of derogation from provisions of Paragraph 1 of this Article, a boat may be entered into the boat ledger of a port authority or its branch office in the area where the boat is permanently or mainly moored or where it navigates.

(3) The procedure for entering boats into the boat records, forms for boat registry, conditions and the procedure for determining names and marks of boats as well as competence of port authorities regarding the keeping of boat records shall be prescribed by the Minister.

Article 203

(1) A boat entirely owned by a natural or legal person having residence or seat in the Republic of Croatia shall be entered into boat records.

(2) A boat entirely or partially owned by a natural or legal person or a citizen of the Republic of Croatia not having residence in the Republic of Croatia may be entered into the boat records if the boat is mainly located in the sea of the Republic of Croatia.

(3) A fee is charged for the registry of a boat from Paragraphs 1 and 2 of this Article.

(4) The criteria for determining the fee and its amount shall be prescribed by the Minister.

Article 204

A boat already registered in a foreign boat ledger shall not be registered in a Croatian boat ledger.

Article 205

The boat ledger is a public record, and an excerpt from the boat ledger shall be considered

prijevod: Jasenka Težak Štefanić
as a supportive public document.

Article 206

A boat entered in a boat ledger shall bear a mark and may also bear a name.

Article 207

(1) A boat shall be deleted from a boat ledger when:

1) it has been wrecked or it is presumed wrecked or destroyed,

2) it no longer meets the requirements set forth in Article 203 of this Code,

3) it is permanently withdrawn from service,

4) if it becomes an appurtenance of a ship or another waterborne craft or is modified to be shorter, to a length of less than three metres,

5) it has been entered into another Croatian boat ledger,

6) it has been entered into another Croatian register of yachts.

(2) It shall be presumed that a boat has been wrecked if a period of three months has elapsed since receipt of the last news of the boat. In this case it shall be presumed that the boat has been wrecked on the date following the date the last available news regarding this vessel have been received.

(3) The owner of the boat shall have the obligation to submit a request to the port authority to delete the boat from the boat ledger within 15 days from the onset of circumstances from Paragraph 1, Point 1) of this Article.

(4) If the boat owner has not submitted a request for deleting the boat from the boat ledger in the term stipulated in Paragraph 3 of this Article, the port authority shall, once all conditions from Paragraph 1 of this Article have been fulfilled, officially delete the boat from the boat ledger.

Part Five

PROPRIETARY RIGHTS

Title I

THE RIGHT OF OWNERSHIP

Article 208

A ship and a ship under construction are movables.

Article 209

(1) Proprietary rights and in particular the right of ownership, mortgage on a ship and maritime liens may be established on a ship, a ship under construction, a yacht and a yacht under construction.

(2) A ship, a ship under construction, a yacht and a yacht under construction may be co-owned.

(3) Unless otherwise specified, co-ownership shall be divided into equal indivisible parts.

(4) Provisions of the Act on Ownership and Other Proprietary Rights shall apply to all proprietary rights pertaining to a ship or yacht unless otherwise stipulated by this Code.

Article 210

Provisions of Articles 211 – 229 and Articles 192 – 194 of this Code shall apply to the acquisition, transfer, restriction and cessation of the rights referred to in Article 209 of this Code.

Article 211

prijevod: Jasenka Težak Štefanić

(1) A ship, a ship under construction, a yacht and a yacht under construction of Croatian nationality may be owned by a domestic of foreign natural or legal person.

(2) A ship or yacht owned by a foreign natural or legal person may be of Croatian nationality according to conditions specified in Article 188 of this Code.

Article 212

(1) The right of ownership of a ship under construction or a yacht under construction shall include objects built into such a ship or yacht under construction.

(2) Unless otherwise entered into the register of ships under construction, or the register of yachts under construction, the right of ownership of a ship under construction shall also include objects found in the shipyard which have not been built into the ship under construction, or a yacht under construction, if according to their construction they are exclusively intended for being built into that particular ship or yacht or its appurtenance, or if they have been distinctly identified or set aside with the intention to be incorporated into that ship or yacht.

Article 213

(1) When the right of ownership or any other proprietary right on a ship or yacht has been acquired on the basis of a legal transaction, such transaction shall be effective only in writing.

(2) A legal transaction not concluded in writing shall have no legal effect.

Article 214

(1) The right of ownership and other proprietary rights on a ship or yacht may be acquired, transferred, limited or cancelled only by an appropriate entry into the register of ships or a register of yachts.

(2) No entry into the register of ships or the register of yachts shall be required for the establishment of a maritime lien and legal effects to third parties arising from such a right.

(3) The legal effect of an entry from Paragraph 1 of this Article with respect to other entries shall depend on the priority ranking such an entry has according to Article 266 of this Code.

Article 215

Provisions of Article 214, Paragraph 1 of this Code shall not apply in the following cases:

1) in the transfer of the right of ownership over a ship or yacht to the insurer by accepting the insurer’s statement of abandonment of a ship or yacht or by payment of compensation from insurance in accordance with Article 709, Paragraph 3, of this Code,

2) in the acquisition of the right referred to in Article 213 of this Code through inheritance, usucaption, or a court-ordered public auction,

3) upon declaring a ship or yacht as a maritime gain or a war gain at sea.

Article 216

Provisions of Articles 213, 214 and 215 of this Code shall also apply to ships under construction and yachts under construction built in Croatian shipyards from the time of their registration in the register of ships under construction, or the register of yachts under construction, as well as to boats which have been entered into the register of ships or the register of yachts at the owners' request.

Article 217

(1) All objects intended for permanent usage, even when temporarily detached from it, shall be considered as appurtenances of a ship or a yacht.

(2) All objects listed into the ship inventory or the yacht inventory shall also be

considered as appurtenances.

Article 218

1) The transfer or alienation of a ship or yacht shall also encompass the ship's or yacht's appurtenances.

(2) The transfer or alienation of a ship or yacht shall not encompass those objects of appurtenances for which a notice has been entered in the register of ships, or the register of yachts with consent of the ship owner, stating that these belong to another natural or legal entity.

Title II

LIEN

1 Mortgage on a ship

Article 219

(1) Mortgage on a ship is a right entitling the creditor to compensate his claim from the sale price of the ship obtained through an auction based on a court order or an extrajudicial sale or by taking the ship into possession and using it.

(2) Contractual parties may exclude certain authorities of a creditor from Paragraph 1 of this Article contractually.

(3) By way of derogation from Paragraph 1 of this Article, when compensation pertaining to mortgage on a ship is conducted abroad, by applying procedural provisions of a foreign law, which does not recognise an auction on the basis of a court order, the creditor shall be entitled to settle his claims from the amount of the purchase price obtained for the ship at a public auction.

(4) Mortgage on a ship shall not be terminated by a change of ownership of the ship, unless otherwise stipulated by this Code.

Article 220

(1) Mortgage on a ship may be established by a contract (contractual mortgage) or based on a court decision (court-ordered mortgage).

(2) If a mortgage contract on which the debtor's signature has been publicly notarised contains a statement of the debtor that the creditor may request the entry of the mortgage into the register of ships directly on the basis of the contract, as well as debtor's statement that he agrees, based on the said contract, that direct distrainment may be conducted on the mortgaged ship for settling claims established by this contract following the maturity of these claims, then this contract shall be considered as an distrainable document.

(3) The mortgage contract may contain an agreement of the parties as to the ship value, and the lowest sale price.

Article 221

(1) In cases of an extrajudicial sale of a ship, the creditor is entitled to sell the ship at his own discretion. In doing so the creditor must act with due diligence and obtain a reasonable price by taking into consideration the ship condition and prices of such and similar ships on the market, and its burdens pertaining to proprietary rights of other persons.

(2) The creditor shall be held liable to the debtor for all damages caused by not acting in accordance with provisions of Paragraph 1 of this Article.

(3) The creditor shall pay the debtor any possible surplus of the amount received by such a sale within eight days from the date he has received payment pertaining to this sale.

Article 222

prijevod: Jasenka Težak Štefanić

(1) The creditor using the right for an extrajudicial sale of a ship shall be entitled to request that the extrajudicial sale be entered into the register of ships.

(2) Following the notice referred to in Paragraph 1 of this Article, entries based on the debtor's disposability shall not be permitted.

Article 223

(1) A buyer purchasing a ship from the mortgage creditor using the right to an extrajudicial sale from Article 219, Paragraph 1 of this Code, shall acquire ownership of this ship regardless of the actual relations between the creditor and the debtor.

(2) The buyer shall be entitled to request the entry of his right of ownership into the register of ships based on a notarised sales contract.

Article 224

In case of an extrajudicial sale of a ship the buyer shall, based on an excerpt from the register of ships and a publicly notarised sales contract, be entitled to request direct distrainment against the debtor in order to enter into possession of this ship.

Article 225

(1) In case of entering into possession of a ship and its employment in order to protect his interests, the creditor may receive proceeds from the ship, and retain it as compensation for his claims.

(2) When entering into possession of a ship and during its employment, the creditor must act with due diligence.

Article 226

The creditor of a mortgage on a ship registered later must obtain the consent of creditors of a mortgage on a ship registered earlier in order to enter into possession of a ship and/or conduct an extrajudicial sale.

Article 227

(1) Based on a contract sub-mortgage may be established on the mortgage of the ship in favour of a third person on the basis of conditions from Article 219 of this Code.

(2) In cases from Paragraph 1 of this Article, a mortgage debtor shall pay his debt to the mortgage creditor only with approval of a sub-mortgage creditor or if the amount owed has been deposited in court. If the mortgage debtor fails to do so, the mortgage on the ship shall remain valid for the claims of the sub-mortgage creditor.

(3) The mortgage creditor may enter into possession of a ship and exploit the ship and/or sell it in an extrajudicial procedure solely upon written approval of the sub-mortgage creditor.

(4) A contract concluded contrary to provisions of Paragraph 3 of this Article shall be null and void.

Article 228

A mortgage on a ship shall also extend to the ship's appurtenances, except when a note has been made in the register of ships to the effect that, with respect of Article 218, Paragraph 2 of this Code, the appurtenance is owned by another natural or legal person.

Article 229

A mortgage on a ship shall also extend to the following incidences of the ship:

1) claims for the compensation of damages for the still unrepaired material damages suffered by the ship,

2) claims arising from general average if they are a result of the still unrepaired material

damages on the ship.

Article 230

A mortgage on a ship shall, unless otherwise stipulated, not extend to freight, fare, towage or rental fees, nor to salvage rewards.

Article 231

(1) A mortgage on a ship shall, unless otherwise stipulated, also extend to indemnity from the ship's insurance due to the ship owner.

(2) A mortgage on indemnity from the ship's insurance shall cease if the insurer pays the indemnity before the mortgage creditor has notified him of the existence of mortgage on the ship.

(3) If the insurer has been notified of the mortgage on insurance indemnity, he shall not pay this to the insured party without the consent of the mortgage creditor.

Article 232

(1) Mortgage pertaining to the principal shall also apply to the costs of mortgage registration and to the legal and distrainment proceedings.

(2) Three years in arrears with interest charges due to the creditor on the basis of a contract or the law shall have the same priority ranking as the principal.

Article 233

When a ship sustains such damages or its condition is such that the mortgage does not provide sufficient security to settle the claims, the mortgage creditor may demand settlement of the claims even before their maturity if the debtor has not offered another type of security for the difference created by this decrease in security.

Article 234

A ship burdened with mortgage may be permanently withdrawn from service only upon prior consent of the mortgage creditors.

If no consent has been obtained from the mortgage creditors as provided for in Paragraph 1 of this Article, the mortgage debtor has the right to demand from the court that the ship be sold at public auction.

Article 235

Provisions of this Code pertaining to mortgage on ships shall also apply to mortgages on ships under construction entered in the register of ships under construction and to yachts entered into the register of yachts.

Article 236

(1) Mortgage on a ship terminates:

1) with mortgage deletion,

2) when the ship is sold in distrainment of bankruptcy proceedings,

3) by an extrajudicial sale of the ship,

4) with the declaration of a ship as a maritime gain or a war gain at sea.

(2) If in the case referred to in Paragraph 1, Point 4) of this Article the ship is released, the mortgage shall be re-established.

Article 237

The rights and their priority ranking acquired by registering mortgage shall not terminate once the ship has been deleted from the register of ships for reasons of the ship being wrecked or presumed wrecked, or permanently withdrawn from service (Article 192, Paragraph 1,

Points 1) and 3)).

Article 238

(1) Mortgage on a ship may for one and the same claim be entered indivisibly on two or more ships or ships under construction, or on two or more claims arising from the mortgage (joint mortgage).

(2) In the case referred to in Paragraph 1 of this Article the creditor shall be entitled to demand the compensation of the entire claim from each individual ship burdened with mortgage.

Article 239

(1) Mortgage on a ship may be registered in the national or foreign currency.

The mortgage creditor shall have the right to dispose of the resources at his own discretion, in the currency obtained by the judicial or extrajudicial sale of the ship, or through a court-ordered public auction as stipulated by Article 219, Paragraph 3 of this Code.

Article 240

(1) A mortgage entered in a foreign register on a ship that has acquired Croatian nationality, which has been indicated in the document on deleting the ship from a foreign register, may be recorded in a Croatian register of ships as a preliminary note regarding the mortgage on the ship, which right shall have the priority ranking according to the decisive circumstances having determined its priority ranking in the foreign register.

(2) The mortgage creditor in whose favour such preliminary note has been registered shall be bound to justify this preliminary note within 60 days from the date a notice of the entry has been delivered to him.

2 Lien on a ship

Article 241

(1) Each of the claims listed below pertaining to the owner, charterer or ship operator, and claims from Paragraph 1, Point 1) of this Article also from the employer, and claims from Paragraph 1, Point 2) of this Article also from the ship manager and the employer has been secured by maritime lien existing on the ship in relation to which it has been created:

1) claims for salaries and other sums owed to the captain, officers and other crew members regarding their employment on board, including costs for the return trip and contributions for social security to be paid in their name,

2) claims for death or personal injury which have occurred on land or at sea and are directly connected to the ship employment,

3) claims arising from rewards for salvage at sea,

4) claims for port fees, for expenses pertaining to sailing in channels and other navigable waterways, and pilotage costs,

5) claims arising from noncontractual liabilities for material losses or damages caused by the ship exploitation, with the exception of loss or damages to cargo, containers and passenger objects transported by this ship.

(2) A maritime lien pertaining to the principal shall also apply to interest.

(3) A maritime lien shall also apply to the ship appurtenances.

Article 242

Provisions regarding maritime liens shall not apply for securing claims from Article 241, Paragraph 1, Points 1) and 5) of this Code which have been created or are a result of:

1) damages resulting from the transport of oil or other dangerous or noxious substances by

sea for which a fee is charged based on international conventions or national law stipulating causal responsibility and compulsory insurance or another way of securing the claim, or

2) radioactive characteristics or a combination of radioactive characteristics with poisonous, explosive or other dangerous characteristics of nuclear fuels or radioactive products or waste.

Article 243

Maritime liens shall not terminate by a change of ownership or registration or the flag of the ship, unless otherwise stipulated by this Code.

Article 244

Liens on a ship shall not refer to claims of the ship owner arising from an insurance contract.

Article 245

(1) Certain claims under maritime lien from Article 252 of this Code shall have the priority ranking corresponding to the order according to which these claims have been indicated in Article 241 of this Code.

(2) By way of derogation from Paragraph 1 of this Article, a maritime lien securing claims from rewards for the salvage of a ship shall have priority over all other maritime liens burdening the ship before the time in which activities have been conducted due to which the stated maritime lien has been created.

(3) Multiple claims from the same category of claims indicated in Article 241, Paragraph 1, Points 1), 2), 4) and 5) of this Code shall be compensated in the same priority ranking.

(4) Maritime liens securing claims indicated in Article 241, Paragraph 1, Point 3) of this Code (claims pertaining to rewards from the salvage of ships) shall, in relation to one another, have the priority ranking opposite of the order of the time in which the claim they secure was created. It shall be considered that such claims were created on the date each particular act of salvage has been conducted.

Article 246

(1) Liens on a ship terminate:

1) with the extinguishment of the claim secured by the lien;

2) a lapse of one year,

3) when the ship has been sold in distrainment of bankruptcy proceedings,

4) by creating a limited liability fund for claims secured by the lien on the ship, subject to limitation of liability.

(2) Maritime liens shall terminate upon declaration of a ship as a maritime gain or a war gain at sea. If the ship is released, the maritime liens which according to Paragraph 1, Point 2) of this Article did not terminate to exist before the ship was captured shall be re-established.

Article 247

(1) The term from Article 246, Paragraph 1, Point 2) of this Code shall be counted:

1) in relation to maritime liens as indicated in Article 241, Paragraph 1, Point 1) of this Code, following the disembarkation of the claimant from the ship,

2) in relation to maritime liens as indicated in Article 241, Paragraph 1, Points 2) – 5) of this Code, following the creation of secured claims.

(2) The term from Article 246, Paragraph 2 of this Code shall expire when the ship has been intercepted or confiscated so that such interception or confiscation shall lead to a compulsory sale of the ship.

3) The term from Article 246, Paragraph 2 of this Code shall not apply in the period during which the interception or confiscation have been prohibited by law.

Article 248

Provisions of this Code pertaining to maritime liens on ships shall also apply when a ship is exploited by a person who is not its owner, unless the ship has been taken away from its owner unlawfully, and the creditor who has a lien on the claim fails to act in good faith.

Article 249

(1) The termination of a maritime lien on a ship shall not terminate the claim secured by this lien.

(2) The assignment of a claim secured by a maritime lien shall also result in the transfer of the maritime lien on the ship.

Article 250

A lien on a ship shall not terminate to exist upon deletion of the ship from the register of ships.

Article 251

Provisions of Articles 241 - 250 of this Code shall not apply to ships entered into the register of public ships.

Article 252

Provisions of this Code pertaining to lien shall also apply to boats, yachts, ships under construction and yachts under construction when afloat.

Title III

PROCEDURE OF ENTRY IN THE REGISTER OF SHIPS

1 Common Provisions

Article 253

Provisions of this Code pertaining to the procedure of entering ships into the registers of ships shall also apply to ships under construction, and to yachts, yachts under construction, floating facilities and fixed off-shore facilities unless otherwise stipulated by this Code.

Article 254

(1) Entries into registers of ships shall be conducted on the basis of rulings by the competent port authorities, with the exception of those under authority of courts as stipulated by this Code.

(2) A ruling regarding an entry on page A of the insert of the main register of ships shall be issued by the port authority keeping the register of ships in which the ship has been entered.

(3) A ruling regarding the first registration of a ship, rulings on entries on page B and page C of the insert of the main register of ships, a ruling on deletion of a ship and a ruling on re-entering a ship into a Croatian register of ships shall be issued by the port authority keeping the register of ships.

(4) A ruling enabling the transfer of the registration of a ship from one Croatian register of ships to another Croatian register of ships shall be issued by the port authority keeping the register of ships where the ship has been registered.

(5) A ruling on transferring the registration of a ship shall be issued by the port authority keeping the register of ships in which the ship is to be entered.

(6) The registration procedure referred to in Paragraph 1 of this Article shall be carried

out in accordance with provisions of the General Administrative Procedure Act.

Article 255

(1) Only the following shall be entered in a register of ships: proprietary rights, charter by demise, time charter for the whole ship, and the right of pre-emption.

(2) If the party authorised for mortgage enters into possession of a ship and its employment in accordance with Article 219, Paragraph 1 of this Code, the authorised party shall be entered into the register of ships as the ship operator.

Article 256

(1) An entry in a register of ships shall contain the text of the ruling regarding the entry.

(2) If due to the state of entries in the register of ships a ruling on an entry may not be completed, the entry may only be completed on the basis of a new ruling correcting or altering the previous ruling.

Article 257

Entries as stipulated by this Code shall be:

1) the first entry into the register of ships - with which a ship not yet registered in a Croatian register of ships is entered into such a register,

2) an entry on page A - with which ship identification date and its technical characteristics are entered into page A of the insert of the main register of ships,

3) recording - with which registration, transfer, restriction or cessation of rights is effected without any special justification (unconditional entry of rights or unconditional deletion),

4) preliminary note - with which registration, transfer, restriction or cessation of rights is effected on the condition of justification at a later date (conditional entry of rights or conditional deletion),

5) notice - with which personal relations important for the disposal of property or other facts are recorded, certain legal effects being in place regarding this notice by law,

6) transfer of a ship's registration - with which a ship is transferred from one Croatian register of ships to another Croatian register of ships,

7) deletion of a ship – with which a ship shall be deleted from the Croatian register of ships,

8) re-entry of a ship – with which a ship is re-entered into a Croatian register of ships.

Article 258

(1) The right of ownership and other proprietary rights on a ship may be registered on the ship as a whole or a part thereof determined in proportion to the whole, however not for individual constituent parts of the ship.

(2) Mortgage may not be registered on a part of a ship, in proportion to the whole, if the right of the ownership of the ship has been registered in favour of one person, nor on any portion of that part of a ship for which a co-owner has been entered in the register of ships.

(3) Entry of the transfer of a claim secured by mortgage on a ship and the acquisition of sub-mortgage rights shall be permitted in respect of the entire claim and a part thereof determined proportionally or numerically.

Article 259

Certain objects being appurtenances of a ship may, with the consent of the ship owner, be recorded in the register of ships as being owned by another natural or legal person.

Article 260

prijevod: Jasenka Težak Štefanić

The entry of mortgage on a ship shall contain at least:

1) the cash amount of the claim secured by mortgage,

2) the amount of interest charges if they are to be paid together with the claim,

3) the company, i.e. the name and seat or the personal name and residence of the mortgage creditor.

Article 261

If mortgage is created to secure claims that might arise from a granted credit, from assumed guarantees, or from damages indemnities, the highest sum which the credit or liability may reach must be stated in the document on the basis of which entries are being made.

Article 262

Entries shall only be permitted against persons in whose favour, at the time of the submitting the proposal for the entry in the register of ships, the right of ownership or the right regarding which the entry is being made is registered or is being simultaneously registered in the register of ships.

Article 263

(1) If several persons have successively acquired the right to register a right on a ship or a right based on rights registered on a ship, and have not registered these rights, the last person having acquired such a right may, if he provides evidence as to who his predecessors are, demand that this right be registered directly in his favour.

(2) If a claim secured by mortgage entered in the register of ships has been transferred to another person, and the claim has in the meantime been settled, the debtor may, if he can prove the transfer, demand that the entry be erased without prior transfer being effectuated.

Article 264

(1) If a creditor entitled to request an entry of mortgage on a ship, or sub-mortgage rights on registered mortgage of his debtor, has not requested such entry, the guarantor may request the entry of these rights in favour of the creditor.

(2) Each co-owner may for himself and on behalf of other co-owners request entry of their joint rights which cannot be divided in proportion to the whole.

Article 265

Entries in a register of ships on the basis of a ruling on inheritance or legacy shall be made on the basis of a final ruling of the competent probate court.

2 Priority Ranking

Article 266

(1) The time when the proposal for an entry has been received by the port authority keeping the register of ships in which the entry is to be registered shall determine the priority ranking of registration.

(2) Entries effectuated on the basis of proposals which arrived at the same time shall obtain the same priority ranking, unless otherwise specified by another act.

Article 267

Priority ranking of the rights registered on a ship may change by a recording or a preliminary note assigning priority ranking. This modification shall require consent from the party authorised on rights, who assigns his priority ranking and whose right moves back as well as from the party authorised on the right who moves forward into his place. If the right

which moves back is a mortgage right, consent of the ship owner shall also be required, and if the right which moves back is burdened with a right of a third person, consent from the latter shall also be required.

Such a modification shall not affect the extent and priority ranking of other registered rights.

Article 268

The right moving forward shall acquire priority ranking of the right moving back without any restrictions, if these rights have been entered into the register of ships immediately one after another, or have been accorded priority by all persons whose rights have been registered among them.

Article 269

(1) If an assignment of priority ranking is conducted between rights which where not entered immediately one after another, without consent from the party authorised on rights registered among them, then the right which moves forward shall acquire priority ranking of the right which moves back exclusively within the scope and contents of this right.

(2) If the right which moves back is conditional or limited in time, the right which moves forward in a procedure conducted before the occurrence of this condition or the expiration of the stated term, may be settled only to the amount pertaining to this right according to its previous priority ranking.

(3) If a buyer at a public auction must assume a right which moves back according to its previous priority ranking without its inclusion into the purchase price, in the division of the purchase price the right which moves forward shall be taken into account according to its original priority ranking.

Article 270

The right moving back shall have priority in its initial position over the right which moves forward, unless otherwise stipulated between mortgage creditors exchanging mortgage positions.

Article 271

If by an assignment of priority ranking a number of rights takes the ranking of another right and the assignment is simultaneously recorded, the right which had priority in the priority ranking prior to the assignment shall retain its priority in the new ranking, unless otherwise stipulated between mortgage creditors exchanging mortgage positions.

Article 272

Subsequent changes concerning the existence or extent of the right which is moved back through assignment shall have no effect on the priority ranking of the right moving forward, unless otherwise stipulated between mortgage creditors exchanging mortgage positions.

3 Applications and Proposals

Article 273

(1) A ruling on entering a ship into a register of ships shall be rendered on the basis of an application or proposal of the authorised party or at the request of the competent authority, unless otherwise stipulated by this Code.

(2) Applications and proposals or requests as referred to in Paragraph 1 of this Article shall be submitted to the port authority keeping the register of ships in which the ship has been or should be registered.

Article 274

prijevod: Jasenka Težak Štefanić

(1) Applications and proposals for the entry of a ship into a register of ships shall be submitted in a sufficient number of copies to the port authority keeping the register of ships, particularly for that port authority and for the parties to whom the ruling on registering the ship must be submitted.

(2) If an application or proposal has not been submitted in a sufficient number of copies, the port authority referred to in Paragraph 1 of this Article shall request the applicant to do so within a specified term. If the applicant fails to proceed accordingly, the port authority shall order to have the application copied at the applicant's expense.

Article 275

(1) If a submission is subject to a time period determined by the provisions of this Code pertaining to the procedure for the registration of ships, the submission shall be deemed to have been submitted on time solely if before the expiration of the time period it has been received by the competent port authority keeping the register of ships.

(2) The terms determined by provisions of this Code pertaining to the procedure of entry into a register of ships, with the exception of terms for the justification of preliminary notes (Articles 327 and 329) and the period for the submission of original documents (Article 294) or translations (Article 295), shall not be extended.

(3) No restoration into the previous condition shall be permitted arising from failure to abide by the time periods stipulated by this Code in the procedure of entry into a register of ships.

Article 276

(1) A written application shall be submitted for the first registration of a ship whose entry into a register of ships is obligatory (Article 187), for the entry of changes registered on page A of the insert from the main register of ships, or for the entry of changes due to which a ship is being deleted from the register of ships.

(2) For other entries a proposal shall be submitted in writing.

Article 277

(1) An application or proposal for entering a ship into a register of ships shall state the authority which the application or proposal is addressed to, the personal name and residence or the name and seat of the applicant and those persons to whom the ruling on entry must be communicated to, as well as the name or sign of the ship to be registered.

(2) The proposal or application shall specify precisely what must be entered into the register.

(3) The proposal for registration shall automatically imply the proposal for an entry of a preliminary note, unless the party proposing the entry of a preliminary note has not explicitly waived this option.

(4) Several entries may be requested on the basis of a single document by one proposal, as well as the entry of one and the same right into several inserts, or the entry of several rights into one insert.

Article 278

An application for the entry of ships into a register of ships shall contain all facts to be entered into the register of ships.

Documents providing evidence to the facts being entered into the register of ships shall be enclosed to the application.

Article 279

prijevod: Jasenka Težak Štefanić

A proposal submitted by a legal representative of a person for entry of the acquisition, transfer, restriction or cessation of the rights registered on ships shall be accompanied by the approval of the competent guardianship authority when necessary.

Article 280

(1) Entries on page A of the insert of the main register of ships, recordings and preliminary note entries shall be permitted only on the basis of documents drawn up in the form prescribed for their validity.

(2) Titles or personal names of persons participating in the legal transaction stipulated in the document on the basis of which an entry is to be made shall be precisely specified. Such a document shall also specify the place and date of its creation.

(3) Documents on the acquisition, transfer, restriction and cessation of the rights referred to in Article 213 of this Code shall also specify valid legal grounds.

(4) Documents on the basis of which an entry is being made into a register of ships shall have no visible defects impairing their authenticity, and when they consist of several pages, they shall be bound together in a way preventing the insertion of any additional pages.

Article 281

(1) Documents on the basis of which entries are made into pages B and C of the insert of the main register of ships shall be submitted in the original, whereas other documents may be enclosed in certified copies.

(2) Each document referred to in Paragraph 1 of this Article shall be submitted also in an uncertified copy or a photocopy for document files. The registrar of shipping shall confirm that this copy or photocopy is identical to its original.

(3) If the original of a document has been filed into the official records or is kept at the port authority keeping the register of ships, or when it has been enclosed to a proposal or application already submitted, it shall be sufficient to submit two copies or photocopies and state where the original is kept.

(4) If the original document cannot be submitted immediately because it is kept by another authority or court, this must be stated in the proposal or application and a copy or photocopy of it must be enclosed, with a certification of the administrative body or court providing evidence that the copy or photocopy is identical to the original, as well as a non-certified copy or photocopy of this document.

Article 282

Documents in a foreign language must be accompanied by a certified translation into the Croatian language in the Latin script.

4 Conducting Registration

a) Common Provisions

Article 283

Unless otherwise stipulated by this Code provisions of the General Administrative Procedure Act shall apply accordingly to the administrative process of entry into the register of ships conducted at the port authority keeping the register of ships.

Article 284

A party in the process of entry into a register of ships shall be a person requesting the registration or against whom the procedure has been initiated or who is entitled to participate in the process for the protection of his rights or legal interests.

Article 285

prijevod: Jasenka Težak Štefanić

In the process of entry into the register of ships the port authority keeping the register of ships shall reach decisions in the form of a ruling when deciding on the right or obligation of a certain party, and shall furthermore reach decisions by a conclusion regarding issues pertaining to the procedure but not encompassed by a ruling.

Article 286

A hearing of parties and other participants in the process of entry into the register of ships may be conducted in person or through a written statement. When the hearing shall encompass several persons, they may be present at this hearing even in the absence of others.

Article 287

(1) Minutes shall be taken regarding oral statements provided in the process of entry into a register of ships.

(2) For statements or communications of minor importance, it shall suffice to make an official note on the document in place of minutes.

Article 288

Parties shall bear their own expenses in the procedure of entry into a register of ships.

Article 289

The time when the application or proposal has been received by the port authority keeping the register of ships shall be decisive for its deciding on the issue.

Article 290

(1) The port authority keeping the register of ships shall record an application or proposal for the entry into the register of ships in the daybook of the register of ships, noting the date, hour and minute when the application or proposal has been received. In the insert of the register of ships in which the ship has been entered, and if the insert is already in use, this port authority shall record that the application or proposal for registration has been submitted, indicating in pencil the reference number of this submission, entered in the daybook of the register of ships.

(2) If an insert has not yet been used, as soon as an application or proposal for the first entry into the register of ships has been received, a new insert shall be used, indicating in pencil the reference number of this submission, entered in the daybook of the register of ships, the name or mark of the ship and reference numbers of all subsequent applications or proposals received prior to the entry into the register of ships has been completed or before the ruling rejecting the entry of a ship becomes final.

(3) A new insert for the first entry of a ship into the register of ships shall not be used when the application or proposal is completely unintelligible or vague.

Article 291

(1) A proposal for the transfer of an entry of a ship to a register of ships kept by another port authority shall be submitted to the port authority with which the ship has been registered.

(2) The proposal shall be accompanied by documents providing evidence that preconditions exist for the transfer of the ship's registration referred to in Paragraph 1 of this Article.

(3) When a port authority in whose register of ships the ship has been registered receives the application or proposal for the transfer of the ship's registration to a register of ships at another port authority, it shall note this request for transfer in the register of ships in which the ship has been registered. Based on the notice, the port authority shall render a ruling permitting the transfer of registration into another register of ships with all data from the

register of ships, which it shall then forward to the port authority with which the ship shall be registered.

(4) Once the port authority in whose register the ship is to be entered renders a ruling, as stipulated by Paragraph 1 of this Article, regarding the transfer of the ship registry with all data from the register of ships from the received excerpt into the new register of ships, the ruling on this shall be delivered to the port authority in whose register the ship had been entered previously, for the purposes of deletion from this register. The port authority in whose register the ship had been entered previously shall conduct the deletion procedure from its register, and shall forward to the port authority in whose register the ship is entered the document file pertaining to this ship.

(5) When a proposal has been submitted for the transfer of a ship from one register into another, both of which are kept by the same port authority, the port authority shall act in accordance with provisions from Article 290 of this Code.

Article 292

(1) On the basis of a proposal or application and its enclosures the port authority keeping the register of ships shall permit the entry of a ship into the register of ships when:

1) no obstacle to the requested entry exists pertaining to the register of ships and regarding the ship or rights on the ship, or in case of an application or proposal for the first entry of a ship in the register of ships, if the requirements referred to in Articles 187 and 188 of this Code have been met,

2) no reasonable doubt exists that the applicant is authorised to submit the proposal and that the participants to whose rights the registration refers to have the capacity to dispose of these rights,

3) according to the contents of the documents submitted the request is legitimate,

4) the documents have the form required to permit the entry of a recording, a preliminary note or a notice.

(2) When the transfer of registration of a ship is permitted by a port authority other than the port authority keeping the register of ships from Article 254, Paragraph 5 of this Code, the port authority from Article 254, Paragraph 4 of this Code shall be limited to decide whether or not the registration is permissible as regards the state of register, while other preconditions for the entry shall be decided by the port authority from Article 254, Paragraph 4 of this Code permitting the transfer of registration for this ship.

Article 293

(1) With the exception of cases referred to in Articles 311, 331 and 355 of this Code, the port authority keeping a register of ships shall decide on the matter pertaining to every application or proposal without hearing the parties, and as a rule without rendering a prior decision (Articles 294, 295 and 374). In its ruling the port authority shall explicitly state whether the proposal has been approved or rejected.

(2) If the proposal has been approved partially, the registration of the part approved shall be ordered, while the part not approved shall be rejected.

(3) When the proposal is rejected wholly or partially, the ruling shall give the reasons for its rejection.

Article 294

(1) The port authority keeping the register of ships shall render a ruling regarding the entry into the register of ships on the basis of original documents.

(2) If the application or proposal as well as the enclosed copies of the documents indicate

that the request could be granted had an original document been submitted, the port authority shall, in order to preserve the priority ranking of the right involved, order a notice of the application or proposal to be made in the register of ships with the remark "until the original has been received".

(3) The port authority keeping the register of ships shall determine an adequate time period for the applicant during which he must submit the original document, unless the authority in its possession is not officially responsible for sending it. If another authority or a court delivers the original document at a later date, or when the document has been submitted within the time period given, a decision regarding the proposal shall be reached.

(4) It the original document has not been submitted within the given time frame or an extended time period, the proposal shall be rejected and an official deletion of the notice ordered.

(5) By way of derogation from provisions of Paragraph 1 of this Article, the port authority keeping the register of ships may, having assessed that justifiable reasons for this exist, permit entry into the register of ships on the basis of a certificate on the deletion of a ship from a foreign register of ships sent by facsimile, and provided that a term has been established for the submission of the original document.

(6) When it has been concluded from the proposal and the enclosed documents that the request could not have been granted even if the original document had been enclosed, the port authority shall reject the proposal.

(7) Provisions of this Article shall correspondingly apply to applications for the first registration of a ship or a ship under construction.

Article 295

If a translation of a document in a foreign language has not been enclosed to an application or proposal and the submission does not indicate that the request should be rejected, the port authority keeping the register of ships shall, in order to preserve the priority ranking for the right involved, make a notice of the application or proposal in the register with the note "until the translation has been received". The port authority keeping the register of ships shall simultaneously establish a reasonable time period within which the applicant must submit the translation. If the translation has been submitted within the given time frame or an extended time period, a decision shall be reached regarding the proposal; otherwise the application or proposal shall be rejected and an official deletion of the notice ordered.

Article 296

(1) The port authority keeping the register of ships shall not permit entry into the register of ships of more data as well as other data not requested by a party, although according to the documents submitted the party would be entitled to request the entry of more or other data.

(2) If only an entry of a preliminary note has been proposed, no recording shall be completed despite existing preconditions for such recording.

Article 297

(1) If the documents have lead to the conclusion that a person who has acquired the right to the recording has been given permission for it, but restrictions have been imposed upon him simultaneously regarding disposal with the right acquired, or that obligations have been imposed upon him regarding simultaneous recording in favour of specific authorised parties, the entry requested shall not be permitted unless the registry or - depending on the kind of the document involved - at least a preliminary note of the contracted restrictions or obligations has been simultaneously proposed.

(2) A proposal for the simultaneous entry of mutual rights and obligations may be submitted by any party.

Article 298

(1) A ruling permitting an entry into the register of ships shall contain:

1) an indication of the insert in which the entry shall be made and the name of the ship to which the entry refers to,

2) the name and seat or the name and residence of the person in whose favour the entry shall be made, the ship or the right on the ship on which the entry shall be made, an indication of the documents on the basis of which the entry has been permitted, the type of entry to be made and the essential contents of the right being entered, all this in words which shall be entered into the register of ships.

(2) If contents of the right being entered cannot be expressed briefly, reference may be made to exactly designated passages in the documents on the basis of which the entry has been ordered, with the same legal effect as if these passages had been entered into the main register.

(3) A ruling permitting the registration of a ship into a register of ships must also contain all facts that must be entered on page A, in the words in which these facts had been stated in the previous ruling of the port authority keeping the register of ships.

Article 299

(1) When a port authority from Article 254 of this Code rejects a proposal for recording or preliminary registry or for the initial entry of a ship into the register of ships or has rejected the proposal for registering the priority ranking, or the port authority from Article 254, Paragraph 5 of this Code rejects the completion of an entry permitted (Article 298), the port authority shall determine the entry of a notice regarding the rejection of these requests through a ruling. The port authority shall act in the same manner in the event a proposal for permitting the sale for the purpose of settling a claim for which no lien has been recorded has been rejected.

(2) A notice shall not be entered when:

1) the identity of a ship or right the entry of which has been requested cannot be determined from the proposal and its enclosures, or if the ship or the right have not been entered into the appropriate register of ships,

2) the right of ownership or another right on the ship have not been entered in favour of the person against whom the recording or a preliminary note may be carried out according to the document contents.

(3) The entry of the notice shall be indicated in the ruling.

Article 300

When the port authority from Article 254 of this Code has established that the ruling rejecting the entry referred to in Article 299 of this Code has become final as no appeal has been lodged, it shall officially issue a ruling ordering the deletion of the notice rejecting the entry and shall notify the parties thereof.

Article 301

The port authority keeping the register of ships in which the ship has been registered shall submit a ruling on the entry, and in cases of an initial entry – the port authority keeping the register of ships in which the ship is to be registered.

Article 302

(1) Each entry, except entries on page A concerning technical data, shall contain:

1) the date the proposal has been received and the reference number of the register of ships daybook,

2) the Title of the document being the basis for entry, the place and date of its creation,

3) the name of the port authority, the reference number and date of its ruling permitting the entry,

4) the type of entry (Article 257) and the essential contents of the right or facts to be entered,

5) the name and seat or the name and residence of the person in whose favour the entry is being made.

(2) If the port authority simultaneously receives several proposals relating to the same ship, at each entry made in connection with these proposals a notice shall be made of the reference numbers of other proposals with the indication that they have been received simultaneously.

Article 303

(1) When the port authority keeping the register of ships renders a ruling ordering the registration of a ship in the register of ships, a simultaneous registration of the ship is to be made on page A and page B of the register of ships. Following registration the port authority shall act in accordance with provisions of Articles 310 and 313 of this Code.

(2) When the port authority referred to in Paragraph 1 of this Article renders a ruling rejecting the request for registration of the ship in the register of ships and orders the entry of a notice rejecting the request, it shall enter the notice on page A of the new insert, in conformity with Article 290, Paragraph 2, of this Code.

Article 304

(1) A ruling rejecting an application or proposal for the registration of a ship into the register of ships shall be noted on page A of the new insert, in connection with the application or proposal submitted.

(2) The notice referred to in Paragraph 1 of this Article shall not be entered if no new insert has been used, in connection with the application or proposal (Article 290, Paragraph 3).

Article 305

Each ruling shall indicate to whom the ruling is to be delivered and to whom the port authority must deliver certain documents (Article 313, Paragraph 2).

Article 306

(1) Rulings on proposals and applications for registration in the register of ships shall be delivered to the applicant and to the person on whose ship ownership a right has been acquired, or whose rights are being transferred, restricted, burdened or cancelled, and to the person against whom the entry of a notice in the register of ships has been made.

(2) A ruling permitting a whole or partial deletion of an entry shall also be delivered to all persons in whose favour further recordings or preliminary notes on the right entered exist.

(3) A ruling on a recording or a preliminary note by means of which a mortgage right or assignment of the right is registered on the registered rights of third persons, shall also be delivered to the ship owner.

(4) A ruling permitting an entry upon proposal of an authorised representative against the party who issued the power of attorney shall be delivered to the party in person, if the power

of attorney does not conform to provisions of Article 316, Paragraph 2, of this Code.

Article 307

(1) The delivery referred to in Article 306 of this Code shall be conducted in accordance with provisions of the Civil Procedure Act pertaining to delivery to the parties in person.

(2) If originals of the enclosed documents (Article 313) are to be returned to the party, these originals shall be returned to the party who has enclosed them, unless otherwise specified by the party.

Article 308

(1) The validity of an entry may not be contested because the delivery had not been conducted properly or had not been made at all.

(2) A person who on the basis of an entry completed, claims any right for himself, or any exemption from an obligation, shall not be required to prove that the delivery has been completed.

Article 309

The port authority having deleted a ship from the register of ships shall issue to the party, upon his request, a certificate of deletion. The certificate on deletion shall cite the reasons for the deletion and the ruling on the basis of which the deletion had been carried out.

Article 310

(1) The port authority keeping the register of ships shall affix a certificate of the entry made on the original document on the basis of which an entry was made.

(2) The certificate referred to in Paragraph 1 of this Article shall cite the ruling on the basis of which the entry was completed and the insert in which the entry has been made.

(3) If an entry was made on the basis of several mutually interconnected documents, the certificate shall be affixed to the document from which the right to entry directly derives (Articles 263 and 264).

Article 311

(1) No data shall be deleted from the register, moreover no data shall be added or modified in any other way.

(2) All entries in a register of ships shall be made in ink.

(3) If a mistake was made at registration which was noted at the time of the registration, it shall be corrected without an order from the port authority. A mistake made at registration shall be crossed out in such a way that it remains legible.

(4) A mistake noted after the completion of registration may only be corrected by order of the competent authority referred to in Article 254 of this Code, which shall, should the mistake have any legal consequences, conduct a hearing of the participants. Initiating such a procedure shall be noted on the page in which the erroneous registration was made. The effect of such a notice shall be that subsequent entries shall not prevent the correction of the mistake. When the ruling on the correction of the mistake becomes final, the notice shall be officially erased.

(5) Corrections of erroneous entries shall bear a date, the signature of the registrar of shipping and the seal of the port authority keeping these registers of ships.

Article 312

(1) A ruling on the deletion of a ship from the register of ships and a notice of rejecting a request for deleting a ship from the register of ships shall be entered on page A of the register of ships.

(2) Upon the finality or legal validity of the ruling on deleting a ship from the register of ships, the port authority keeping the register of ships shall draw, in red ink, two crossed lines and a horizontal line on each page under all entries, without crossing individual entries, across each page of the insert of the main register

(3) The port authority referred to in Paragraph 2 of this Article shall proceed in accordance with provisions of Paragraph 2 of this Article after the ruling on rejecting a proposal or application for a first registration of a ship in the register of ships (Article 299, Paragraph 1) becomes final or legally valid.

Article 313

(1) After concluding the registration, the port authority keeping the register of ships shall return the original documents or certified copies of the documents to the party if uncertified copies of these documents were enclosed in the application or proposal. Otherwise, original documents and their certified copies shall be kept in document files, and the port authority shall notify the party about the possibility of returning these originals if the party submits certified copies in return. The port authority may make such copies and charge the relating prescribed taxes.

(2) If the port authority referred to in Paragraph 1 of this Article makes an entry on the basis of a court ruling, it shall handle the documents as specified in this ruling (Article 305).

(3) As regards the copies required for the document files, provisions of Paragraph 1 of this Article shall apply.

b) Special Provisions

FIRST REGISTRY INTO THE REGISTER OF SHIPS

Article 314

The initial registration in a register of ships under construction shall be permitted by the port authority keeping the register of ships under construction where the ship under construction is to be registered, if the application or proposal for the initial registration is accompanied by the following documents:

1) a document providing evidence of the ownership right of the ship under construction,

2) a certificate of the shipyard regarding technical data which are to be registered on page A of the register of ships under construction, the place and starting date of construction,

3) a statement from the owner of a ship under construction regarding the name of the ship under construction, or, if the ship has no name, a statement from the shipyard regarding the mark of the ship under construction.

Article 315

(1) The initial registration of a ship in a register of ships shall be permitted by the port authority keeping the register of ships under construction if the application for the initial registration of the ship is accompanied by the following documents:

1) a document providing evidence of the ownership right of the ship,

2) an excerpt from the court register or another document providing evidence that the owner is a Croatian citizen or a Croatian legal person, or that requirements for the registration of the ship in the register of ships have been met,

3) a ruling on determining of the name or mark of the ship and of the port of registration for a ship,

4) a certificate of technical data of the ship for the purpose of its registration in the register of ships, issued by the recognised organisation, with a certificate that the ship is technically

prijevod: Jasenka Težak Štefanić

acceptable for entry into the Croatian register,

5) a document determining the call sign of the ship according to the International Code of Signals, if the ship must have such a signal,

6) documents providing evidence for other facts entered on page A of the insert of the main register of ships,

7) a certificate of the authority keeping the foreign register of ships that the ship had been deleted from this register, if the ship is being transferred from a foreign register into a Croatian register of ships.

(2) When the ship owner is a foreign national or a foreign legal person, he shall enclose to his application documents providing evidence of the right for the ship to be registered in a Croatian register of ships, and of facts indicated in documents referred to in Paragraph 1 of this Article.

RECORDING

Article 316

(1) Unless otherwise stipulated by this Code or other acts, recording (Article 257, Point 3)) may be permitted by this Code only on the basis of public documents or private documents on which the signatures of the persons whose right should be restricted, burdened or transferred to another person have been certified by an authority competent for the certification of signatures.

(2) On the basis of a private document issued by an authorised representative, recording against the authoriser may be permitted only if the power of attorney issued by him relates to a specific transaction or to specific kind of transactions, and if not more than a year has elapsed from the date the power of attorney has been issued to the date on which the request for the recording has been made.

(3) No certification of signature on a private document shall be necessary if approval of the authority responsible for the protection of the rights and interests of the person whose right should be restricted, burdened or transferred to another person has been indicated on the document.

Article 317

(1) A private document on the basis of which recording may be permitted shall, in addition to facts referred to in Article 280 of this Code, also contain:

1) the exact mark of the ship or the right on the basis of which the recording is conducted,

2) an explicit statement of the person whose right is being restricted, burdened, revoked or transferred to another person that he consents to the recording.

(2) Provisions of Paragraph 1, Point 2 of this Article shall not apply to documents regarding the acquisition of the ownership right of a domestic or foreign ship, when the initial registration of the ship in a Croatian register of ships is requested.

Article 318

(1) Public documents on the basis of which recording may be permitted are:

1) documents on legal transactions issued by the court within the limits of its jurisdiction, if they contain the facts prescribed in Article 280 of this Code,

2) documents issued in a proper form by courts or administrative bodies, within the scope of their jurisdiction, which are legally considered as distrainable court documents, or based on which an entry may be made in public records according to special regulations.

(2) Recording on the basis of a decision rendered by a foreign court may be undertaken if

this decision has been recognised in specially prescribed procedure.

PRELIMINARY NOTES

Article 319

When a submitted document conforms to general conditions for registration, but does not conform to all special requirements for the recording as prescribed by Articles 316 – 318 of this Code, the port authority keeping the register of ships shall permit the preliminary note (Article 257, Point 4).

Article 320

A preliminary note of mortgage on a ship shall be permitted only if the claims and the legal grounds of the mortgage right are credible.

Article 321

When a ship previously registered in a foreign register of ships is to be registered in a Croatian register of ships, and the document on the deletion of this ship from the foreign register of ships indicates that the ship is burdened with mortgage (Article 240), a preliminary note of the mortgage right shall be officially entered with the priority ranking it had at the time which was decisive for establishing the priority ranking in the foreign register of ships, if at the time of registration requirements for recording the mortgage specified by this Code were not met.

Article 322

A preliminary note of a charter by demise and a time charter for the whole ship as well as of the right of pre-emption shall be permitted only if the existence of the right and consent for the entry are credible.

Article 323

An entry of a preliminary note shall also be permitted on the basis of the following documents:

1) court decisions not yet final which approve or reject a request for the establishment, acquisition, restriction or cessation of the right registered,

2) court decisions permitting a preliminary note in security proceedings according to the distrainment procedure regulations,

3) requests of courts, administrative authorities or organisations conducting public authority entrusted to it by law, when they are authorised by law to officially order the securing of specific claims through mortgage on a ship.

Article 324

If the debt amount secured by mortgage on the ship has been deposited with a court, for which according to legal rules of the property law, there is justified reason that the debt cannot be paid to the creditor, a preliminary note shall be permitted based on the court confirmation that the amount has been deposited, notably:

1) when the debt amount has been deposited with the court by the debtor or a person liable for the debt, a preliminary note of the deletion of the mortgage shall be permitted,

2) when the debt amount has been deposited with the court by a third person to whom according to legal rules of the property law, the creditor must assign his claim, a preliminary note of assigning the claim secured by mortgage shall be permitted.

Article 325

Registered rights shall be acquired, transferred, restricted or revoked by preliminary notes, provided that the preliminary note is subsequently justified, and to the extent to which it is

justified.

Article 326

A preliminary note may be justified on the basis of:

1) a document permitting the recording, issued by the person against whom the preliminary note is being registered,

2) a confirmation that the court decision referred to in Article 323, Point 1), of this Code has become final and distrainable,

3) a final decision of the competent authority regarding the existence of the claim referred to in Article 323, Point 3), of this Code, for the security of which the preliminary note has been registered,

4) a final and distrainable court decision in a lawsuit against the person against whom the preliminary note is being registered.

Article 327

(1) When a preliminary note is being justified by the submission of a document valid for recording (Article 326, Point 1)), such justification shall be made within 15 days from the date of delivering the ruling regarding the preliminary note.

(2) When a preliminary note is being justified on the basis of a final and distrainable court decision (Article 326, Point 4)), a lawsuit must be initiated within 15 days from the date of delivering the ruling regarding the preliminary note.

(3) The term in which the preliminary note must be justified shall be indicated in the decision regarding the preliminary note.

(4) The term for justifying the preliminary note may be extended by the port authority keeping the register of ships, at request of the party, when justified reasons for this exist.

The proposal shall be submitted to the port authority keeping the register of ships.Article 328

(1) When a preliminary note is being justified by submitting documents referred to in Article 326, Points 1) to 3) of this Code, the proposal for the justification of the preliminary note shall be submitted to the port authority keeping the register of ships.

(2) When a preliminary note is being justified by a court decision rendered in a lawsuit (Article 326, Point 4)), the party seeking the entry of a preliminary note shall be bound to initiate a lawsuit at a competent court and notify thereof the port authority keeping the register of ships.

Article 329

(1) The term within which a lawsuit for the justification of a preliminary note must be initiated shall be indicated in the decision regarding the preliminary note.

(2) The term for initiating a lawsuit may be extended, at request of the party, if significant reasons for this exist.

Article 330

If a lawsuit concerning the existence of the right a preliminary note of which is sought is ongoing at the time the proposal for an entry of a preliminary note is submitted, another lawsuit for the justification of the preliminary note shall not be necessary if, according to provisions of the Civil Procedure Act, it is still possible to request the justification of the preliminary note in the ongoing lawsuit.

Article 331

(1) If the preliminary note is not justified, the person against whom the preliminary note

has been permitted may propose its deletion.

(2) If a conclusion cannot be drawn from the documents that the lawsuit for the justification of the preliminary note was initiated on time, or that the term for the justification had not yet expired on the date when the proposal for the deletion has been submitted, the port authority keeping the register of ships shall determine a hearing within a short term at which the party proposing the preliminary note must provide evidence that the time period for the justification has not yet expired, or that the lawsuit was initiated on time.

(3) If the port authority keeping a register of ships has established that the term has expired, or that the lawsuit had not been initiated on time, it shall permit the deletion of the preliminary note.

(4) It shall be considered that a lawsuit for the justification of the preliminary note has been initiated on time, although the term for its initiating had expired, if it has been initiated before submitting the proposal for the deletion of the preliminary note, or at least on the same date when the proposal had been submitted.

Article 332

(1) If the plaintiff's request for the justification of the preliminary note is approved in the lawsuit seeking justification for the preliminary note (Articles 327 and 330), at the request of any party the justification of the preliminary note shall be noted in the register of ships according to the contents of the final verdict.

(2) If the rejection of the request for the justification of the preliminary note from the lawsuit referred to in Paragraph 1 of this Article becomes final, the preliminary note shall be deleted.

Article 333

(1) If the preliminary note has been deleted due to the lawsuit for the justification of the preliminary note not having been initiated on time, a new preliminary note may be proposed, which shall have legal effect only from the time such a new proposal has been submitted.

(2) The ship owner, or the authorised party on the right registered may request the establishment of non-existence of the secured right to enter a preliminary note by a lawsuit. A verdict by which such a request is approved shall be noted in the register of ships at the request of a party, which shall prevent a new permission for the preliminary note.

Article 334

(1) If a preliminary note is deleted for reasons other than those mentioned in Article 333 of this Code, the port authority keeping the register of ships shall officially reject any new proposal for the entry of a preliminary note regarding the same right on the basis of the same document.

(2) If the port authority keeping the register of ships fails to do the above and a new preliminary note is registered, this preliminary note shall be deleted as soon as the opposite party reports that the preliminary note has been deleted once previously.

Article 335

(1) If a preliminary note of the ownership right of the ship has been entered, further entries may be permitted not only against the registered ship owner, but also against the ship owner from the preliminary note, however the legal effect of such entries shall depend on whether this preliminary note shall be justified or not.

(2) If the preliminary note is justified, simultaneously with the entry of the justification pertaining to the preliminary note, all entries against the registered ship owner made after the time of submitting the proposal on the basis of which the preliminary note of the right of

ownership was made, shall be officially deleted.

(3) If the preliminary note of the right of ownership is deleted, all entries made in connection to this preliminary note shall be simultaneously officially deleted.

(4) Provisions of this Article shall also apply when a preliminary note of the transfer of his claim to another person has been made against a mortgage creditor.

Article 336

(1) When a deletion of a right has been made through a preliminary note, further entries in respect of this right (e.g. of sub-mortgage rights or assignment) may be permitted, however the legal effect of such entries shall depend on whether the preliminary note of the deletion shall be justified or not.

(2) If the preliminary note of the deletion is justified, all entries that have in the meantime been permitted in relation to the deleted right shall be officially deleted simultaneously with the entry of the justification.

Article 337

(1) If a claim secured by mortgage on a ship is still burdened with sub-mortgage rights at the time when its deletion has been requested, the deletion of this claim shall be permitted only with a remark that the legal effect of this deletion shall in respect of sub-mortgage rights become effective only when they have been deleted.

(2) When the deletion of a claim secured by mortgage on a ship has been recorded, no further entries on the mortgage shall be permitted, and if the deletion of the mortgage right has only been entered through a preliminary note, further entries on this right may be permitted, however only with the legal effect referred to in Article 325 of this Code.

NOTICE

Article 338

(1) The legal consequence of a notice of personal relations, particularly with respect to the restriction of the right to dispose of the property, shall be that no one in whose favour a right has been entered in the register of ships shall be entitled to claim that such relations were not known to him (e. g. minority, extension of parental rights or guardianship, initiating bankruptcy proceedings, etc.).

(2) A notice of personal relations and the deletion of such a notice shall be ordered by the port authority keeping a register of ships on the basis of documents providing evidence for such relations, at the proposal of the parties, their legal representatives or competent authorities.

Article 339

A notice of other facts, except those mentioned in Article 338 of this Code, may only be permitted when such a notice is permitted by this Code and has the effect determined herein (e. g. priority ranking, joint mortgage on a ship, notice renouncing a claim secured by mortgage on a ship, lawsuit for the realisation of a maritime lien, notice of a dispute, etc.).

Article 340

(1) The ship owner may request the entry of a priority ranking notice for an intended alienation of the ship or its burdening with mortgage. The legal effect of such a notice is that the priority ranking of the rights acquired by such alienation or burdening begins at the time the proposal for an entry of the notice has been submitted, if the entry of the above rights has been requested while the notice is in force (Article 342).

(2) A mortgage creditor may, with the legal effect referred to in Paragraph 1 of this

Article, request the entry of a priority ranking notice for an intended assignment or intended deletion of his claim.

(3) The notices referred to in this Article may only be permitted if according to the state of entries in the register of ships a recording of a right which must be registered or a deletion of a registered right would be permitted, and if the signature of the proposing party on the proposal has been certified by the authority competent for the certification of signatures.

Article 341

A ruling approving a proposal for the entry of a notice referred to in Article 340 of this Code shall be issued in one copy only (dispatch).

After entering the notice in the register of ships, the authority keeping the register of ships shall on this copy confirm that the notice has been entered.

Article 342

(1) If a notice of priority ranking is permitted for an intended burdening of a ship by mortgage on it, the notice shall cease to be in effect after the expiration of one year, and in the other cases referred to in Article 340 of this Code - after the expiration of 60 days from the date it had been permitted.

(2) The date when such a notice shall cease to be in effect shall be indicated in the ruling permitting this notice.

Article 343

(1) A proposal for the entry of a right or the entry of a deletion with the priority ranking secured by a notice (Article 340) must be submitted within the time periods specified in Article 327 of this Code, and the proposal must be accompanied by a copy of the ruling permitting this notice.

(2) A document on the basis of which the right for which priority ranking has been noted is being entered or deleted may be drawn up after submitting the proposal for the entry of the notice.

(3) In the ruling, based on the proposal submitted according to Paragraph 1 of this Article, permitting a recording or a preliminary note, the court shall indicate that the entry permitted has the priority ranking acquired by the notice. The authority which has made the entry of the recording permitted or the preliminary note shall confirm on the copy of the ruling permitting the notice of priority ranking that the entry has been completed.

(4) The entry with the priority ranking secured by a notice shall be permitted also when the ship or claim secured by mortgage on the ship has been transferred to a third person or has been burdened following the submission of the proposal for the notice of priority ranking.

(5) If the ship owner or a mortgage creditor has gone bankrupt before a proposal for registration has been made, the registration shall be permitted solely if the document regarding the legal transaction had already been drawn up before the date on which bankruptcy proceedings were initiated, and if the date of the document creation is proved by a certification of the authority competent for the certification of signatures. If a document does not meet these requirements, it shall be assessed whether or not the registration is permissible, in accordance with bankruptcy regulations.

Article 344

If a recording of the transfer of the ownership right of a ship, or of the alienation or assignment of a ship, or of a deletion of a claim with the priority ranking acquired by a notice (Article 340, Paragraph 1) has been permitted, the port authority keeping the register of ships shall, upon proposal of the party in whose favour the recording has been registered, order the

deletion of entries which have in respect of this ship or claim been made after a proposal for the notice had been submitted. A proposal for the deletion of such entries must be submitted within 15 days from the date when the recording with the priority ranking noted has become final.

Article 345

(1) If a proposal for the registration has not been submitted before the expiration of the term following which the effect of the notice terminates (Article 342), or if the amount of the claim in respect of which the notice of priority ranking has been made, has by the end of this term not been exhausted, the port authority keeping the register of ships shall officially order the deletion of the notice pertaining to priority ranking.

(2) Before the expiration of the term referred to in Article 342 of this Code, a deletion of a notice may be permitted only if the proposal for the deletion of the notice is accompanied by a copy of the ruling permitting the notice. When it has entered the deletion, the port authority keeping the register of ships shall certify on the copy of this ruling that the deletion has been completed.

Article 346

(1) The competent port authority, in accordance with Article 254 of this Code shall, at the request of creditors, permit a notice of the court cancellation of a claim arising from mortgage and a notice of the lawsuit arising from mortgage, if the person against whom the cancellation or the lawsuit has been conducted is registered as the owner of a ship burdened by mortgage, and if evidence has been provided that the lawsuit arising from mortgage has been initiated.

(2) A notice of a lawsuit arising from mortgage may also be permitted by the court trying the case.

(3) The notice referred to in Paragraph 1 of this Article shall result in the cancellation or the lawsuit having effect against a subsequent owner of the ship and particularly in the fact that on the basis of a final verdict passed in proceedings relating to the lawsuit noted, or in a court settlement reached in the said lawsuit, distrainment may be conducted on the pledged ship directly against any subsequent owner of the ship.

Article 347

(1) The notice of a lawsuit for realising a maritime lien shall be officially deleted if, within 60 days from the date of the enforceability of the verdict passed pertaining to the lawsuit being the subject of the notice, the creditor whose claim has been secured by a maritime lien has not requested the sale of the ship or the entry of mortgage on the ship, or if, at his request, the ship has not been intercepted within this term (Article 247, Paragraph 2).

(2) If conclusion cannot be drawn from a document that the sale of the ship or the entry of mortgage on the ship has been requested in the term prescribed by law, or that the ship has been intercepted, the court shall proceed in accordance with Article 331, Paragraphs 2 and 3, of this Code.

Article 348

(1) A person who has initiated a lawsuit to contest a recording which he maintains has infringed his registered rights, demanding restoration to the previous condition in the register, may request the court trying the case or the competent authority, according to Article 254 of this Code, that a notice of the lawsuit be entered into the register of ships simultaneously with initiating the lawsuit, or subsequently.

(2) A notice of the lawsuit as referred to in Paragraph 1 of this Article shall result in the verdict passed in this dispute having effect also against persons who have acquired registered

rights after the time the proposal for entering the notice of the lawsuit has reached the authority keeping the register of ships.

Article 349

In the proceedings initiated by a lawsuit for the deletion of recording against persons who have directly acquired rights or have been relieved from burdens by this recording, the deletion of which is sought in the lawsuit, or when the lawsuit is based on relations existing directly between the plaintiff and the defendant, the statute of limitation for the plaintiff's claim shall be assessed according to regulations and legal rules of the property law pertaining to the statute of limitations.

Article 350

(1) A person wishing to contest a recording against third persons, on the permission of which he has been duly informed shall be obliged, within the time period for lodging an appeal against permitting this inscription, to propose to the authority referred to in Article 254 of this Code the entry of a notice that the recording is in dispute, and shall, at the latest within 60 days from the expiry of the term for an appeal, initiate a lawsuit for the deletion of recording against persons who have acquired a registrable right or have secured further recordings or preliminary notes on a registered right based on the contested recording.

(2) Following the expiry of the time period referred to in Paragraph 1 of this Article a recording may be contested by a lawsuit for the deletion against third persons who have acquired further registered rights based on the right registered prior to the notice of a dispute, solely when such persons had not acted in good faith in respect of the validity of the recording contested.

Article 351

If the plaintiff has not been duly informed of permission for a recording he is contesting, the right to initiate a lawsuit for its deletion against third persons who have acquired further registered rights based on the right registered in good faith, shall expire within three years, from the time the proposal for the contested recording has been received by the port authority keeping the register of ships.

Article 352

(1) If the plaintiff withdraws the lawsuit or if according to the law it is considered that the lawsuit has been withdrawn, or when the lawsuit has been dismissed by a final decision or the plaintiff's claim rejected, or if in the case referred to in Article 350 of this Code the lawsuit has not been initiated within the prescribed time period, the port authority keeping the register of ships shall, upon request of the opposite party, order the deletion of the notice of dispute.

(2) If the request for deleting the contested recording has by a final verdict been wholly or partially complied with, or the parties reach a court settlement regarding the recording deletion, the port authority keeping the register of ships shall, at the request of a party, permit the entry of the contested recording deletion according to the verdict contents or the court settlement, and shall simultaneously order the deletion of the notice of dispute and of all recordings and preliminary notes entered for which, in respect of the right deleted, a proposal for entry has been received by the port authority keeping the register of ships subsequently after this the proposal for entering the notice of dispute has been received by the port authority.

Article 353

(1) A person claiming that the recording has occurred as a result of a criminal act may, to achieve the legal effects referred to in Article 348 of this Code in respect of subsequent

entries, request the port authority from Article 254 of this Code to permit the entry of a notice that this recording is in dispute. This person shall have the obligation to submit a confirmation along with the proposal issued by the competent authority that criminal proceedings have been initiated.

(2) If the notice of the dispute has been proposed for the purpose of being effective against third persons as well, who have acquired registered rights in good faith before the notice of dispute has been entered, the proposal for the notice shall be submitted to the port authority referred to in Article 254 of this Code in the time period in which the party is authorised to lodge an appeal against the recording permitted.

Article 354

(1) If the court decision following criminal proceedings is to have the recording deleted together with registered rights acquired before the notice referred to in Article 353 of this Code, the port authority referred to in Article 254 of this Code shall order the deletion of the recording in accordance with the provisions of Article 352, Paragraph 2, of this Code, if the party against whom the contested recording has been made submits, together with the proposal for deleting the recording, a court decision rendered in respect of these criminal proceedings, with confirmation of its finality.

(2) If the court has established the criminal responsibility of the accused in the criminal proceedings, or instructs the injured party to initiate a civil action in respect of his request for the recording deletion, the injured party shall have the right to initiate a lawsuit for the deletion of this recording and of the registered rights referred to in Paragraph 1 of this Article within 60 days from the date the court decision instructing the injured party to initiate a civil action has become final.

If the court has not rendered a decision establishing criminal responsibility of the accused in the criminal proceedings and if the authorised person has failed to initiate a lawsuit within the time period referred to in Paragraph 2 of this Article, the port authority referred to in Article 254 of this Code shall permit the deletion of the notice of dispute upon proposal of the party having a legal interest in the contested inscription remaining in force.

Article 355

When deletion of the notice of dispute has been demanded as a lawsuit for the deletion has not been initiated within the time periods referred to in Articles 350 and 353 of this Code, the port authority referred to in Article 254 of this Code shall proceed in accordance with provisions of Article 331, Paragraphs 2 and 3 of this Code.

Article 356

If a ship owner or a creditor on whose ship or claim a right has been registered, initiates a lawsuit demanding that this right be wholly or partially deleted due to the statute of limitations, the port authority referred to in Article 254 of this Code shall, upon proposal of the plaintiff, permit the entry of the notice of dispute into the register of ships.

Article 357

If a lawsuit is initiated requesting the court to establish that a particular proprietary right has been acquired by usucaption, the court referred to in Article 254 of this Code shall, at the request of the plaintiff, permit the entry of the notice of dispute into the register of ships.

Article 358

(1) A notice of dispute pertaining to a lawsuit for deletion due to the statute of limitations (Article 356), or in the event of a lawsuit for determining the acquisition of a proprietary right by usucaption (Article 357), shall have no effect in respect of third persons who had, relying

on the register of ships, acquired certain recordings before the proposal for entering the notice of dispute has been received by the port authority keeping the register of ships. If a final verdict has established that the plaintiff has acquired a particular proprietary right by usucaption, the right acquired by usucaption shall obtain priority ranking in relation to all entries made after the notice of dispute, and all rights registered subsequently after the notice of dispute which are contradictory in this respect shall be deleted upon proposal of a party.

(2) Provisions of Article 352, Paragraph 2, of this Code shall apply to the deletion procedure accordingly.

Article 359

(1) The court having completed the sale of a ship shall officially order that a notice of the ruling on the adjudication of the ship sold be entered into the register of ships.

(2) The effect of the notice referred to in Paragraph 1 of this Article shall be that the rights entered against the present ship owner may be acquired by further entries solely if the ruling on the adjudication has been reversed by a final court decision.

(3) If the ruling on the adjudication has not been contested or if its contestation is rejected with finality, at the proposal of interested parties all entries made after entry of the notice of this ruling against the present ship owner shall be deleted, and so shall all further entries made in relation to their rights.

Article 360

Proposals for an entry or deletion of notices on which the authority referred to in Article 254 of this Code shall decide shall be submitted to the port authority keeping the register of ships, unless otherwise specified.

ENTRIES OF JOINT MORTGAGE ON A SHIP

Article 361

(1) Pertaining to joint mortgage (Article 238) established by registration in several inserts, one of the inserts shall be designated as the main insert and the others as secondary. The proposal for registration must specify which of the inserts shall be determined as the main one and which ones as secondary; if this has not been specified in the proposal, it shall be considered that the insert cited first in the proposal for registration shall be designated as the main one.

(2) If a request has been submitted for expanding an already existing mortgage on the ship for the same claim to other inserts as well, the insert with the initial burdening shall be considered as the main insert.

(3)A reference in the main insert shall be made by a notice to secondary inserts, and in each of the secondary inserts - to the main one.

Article 362

(1) If in order to secure his claim a creditor requests the entry of mortgage on the ship in a particular insert of the register of ship, he shall have the obligation to report the existence of mortgage on the ship which has already been registered for this claim in another insert, in order to make it possible to have a notice of joint mortgage entered.

(2) A creditor who has failed to report the existence of mortgage on the ship shall be liable for damages caused thereby.

(3) If the notice of joint mortgage on the ship has not been entered, the mortgage debtor may propose that such notice be made and request the creditor to pay the costs if the notice has not been registered by fault of the latter.

prijevod: Jasenka Težak Štefanić

(4) If the authority referred to in Article 254 of this Code, while permitting a recording or a preliminary note of mortgage, has established that mortgage on the ship has already been registered for the same claim in its or some other register of ships, it shall officially determine the insert in which mortgage has already been registered to be the main insert. The authority referred to in Article 254 shall notify thereof the port authority keeping the register of ships in which mortgage has already been registered.

Article 363

(1) A proposal for the registration of joint mortgage in several registers of ships kept by different port authorities may be submitted either simultaneously to all port authorities keeping these registers of ships or to one of these authorities.

(2) If the proposal for the entry of mortgage has been submitted simultaneously to all port authorities in whose registers of ships it is to be entered, the proposal shall indicate which insert shall be designated as the main one and which one as secondary.

(3) If the proposal for the entry of mortgage is submitted to one port authority only, the proposal shall be submitted to the port authority which the party proposing the entry shall select for keeping the main insert and shall indicate the order in which the proposal is to be forwarded to other port authorities.

Article 364

(1) If several authorities referred to in Article 254 of this Code participate in the primary or a subsequent registration of joint mortgage, each of these shall independently decide on the proposal for the recording or a preliminary note entry of the mortgage right into the register of ships under its authority. Each of these authorities shall communicate its ruling thereon also to the authority keeping the main insert.

(2) An appeal against the ruling referred to in Paragraph 1 of this Article shall be lodged with the authority which has rendered this ruling.

(3) If a recording or a preliminary note entry registered in a secondary insert is deleted upon appeal, the port authority keeping the main insert shall be notified of the deletion for the purpose of making a notice in this respect.

Article 365

The priority ranking of joint mortgage shall be determined independently for each insert, decisive for which shall be the time when the proposal for registration of joint mortgage reaches the individual port authority in whose registers the mortgage is being registered.

Article 366

(1) All proposals regarding modifications of a mortgage right for claims for which a joint mortgage on a ship has been registered in several inserts shall be submitted to the port authority keeping the main insert. Decisions on such proposals shall be rendered according to the state of entries in the main insert.

(2) A proposal submitted to a port authority different from the one referred to in Paragraph 1 of this Article shall be returned to the applicant with the instruction to submit the proposal to the port authority keeping the main insert.

Article 367

(1) All modifications that must be made on joint mortgage by transfer, restriction, deletion or in another way shall be registered only in the main insert.

(2) Registration of modifications in the main insert shall have the same legal effect as if it had been made in all the existing or future secondary inserts.

(3) A partial or complete deletion of joint mortgage relating to all the ships or to all the

claims (sub-mortgage) being the subject of joint mortgage shall be recorded in all secondary inserts, and deletion of joint mortgage shall be recorded only in the secondary insert in which this ship or claim has been registered.

Article 368

(1) If a mortgage right on a ship or on a claim secured by mortgage on the ship and registered in the main insert has been deleted, all further entries shall also be deleted from this insert and transferred to one of the secondary inserts kept by the same port authority. If joint mortgage still exists, this insert shall be treated as the main insert.

(2) If the registers of ships kept by the same port authority have no secondary inserts, the port authority with jurisdiction over the previous main insert shall determine, if this has not been determined by the mortgage creditor, which secondary inserts shall in the future be treated as the main insert, and shall officially forward certified copies of existing entries in the main register as well as certified copies of documents pertaining to these entries to the port authority keeping the new main insert.

(3) The conversion of a secondary insert into the main insert shall be communicated to the port authorities keeping all the secondary inserts and shall officially, be entered into each of the still existing secondary inserts.

Article 369

(1) Proposals which can no longer be resolved by the previous port authority due to the fact that joint mortgage has already been deleted from its register of ships, shall be delivered to the port authority to which the keeping of the main insert has been transferred, of which the parties having submitted proposals shall be notified.

(2) The mutual priority ranking of proposals referred to in Paragraph 1 of this Article shall be determined according to the time at which they were received by the authority which kept the previous main insert.

Article 370

(1) No more than one lawsuit shall be needed to justify a preliminary note by which joint mortgage for the same claim has been entered by a preliminary note with various authorities.

(2) In addition to the court of general territorial jurisdiction of the mortgage debtor, the competent port authority, as stipulated by Article 254 of this Code, and in respect of one of the registers in which the preliminary note has been permitted, shall also have jurisdiction over the lawsuit for justifying the preliminary note.

Article 371

Excerpts from inserts which are in respect of joint mortgage treated as secondary inserts shall refer to the main insert, with a remark that modifications that have been made in respect of the joint mortgage registered have been entered into the main insert only.

TRANSFER OF A SHIP FROM ONE REGISTER OF SHIPS TO ANOTHER

Article 372

The port authority from Article 254, Paragraph 4 of this Code shall permit the transfer of registration of a ship from one register of ships to another on the basis of a document providing evidence that the ship shall change the port of registration and that it will be registered in the port located in the area of the port authority from Article 254, Paragraph 4 of this Code.

DELETION FROM THE REGISTER OF SHIPS

Article 373

prijevod: Jasenka Težak Štefanić

(1) The port authority keeping the register of ships shall render a ruling on the deleti

prijevod: Jasenka Težak Štefanić

(3) If a claim referred to in Article 388 of this Code is aimed against a person for whose acts, omissions or failures the ship operator or salvor is held liable, this person shall be entitled to invoke the limitation of liability in accordance with this part of the Code.

(4) The insurer of liability pertaining to claims subject to the limitation according to provisions of this Code, shall be entitled to use the benefits of this part of the Code to the same extent as the person insured.

(5) A reference to the limitation of liability does not imply a recognition of this liability.

Article 387

The captain, other crew members and other persons working for the ship operator, if liable for the claims referred to in Article 388 of this Code, may limit their liability according to Articles 390 – 396 of this Code.

Article 388

(1) Except when applying Articles 389 and 390 of this Code, the following claims are subject to the limitation of liability, regardless of the grounds for liability:

a) claims resulting from loss of life or personal injuries, or from loss or damages of property (including damages to harbour facilities, basins, navigable waterways for the approach of vessels and navigational marks) that have occurred on board or are directly connected to the usage of the ship or in the operation of salvage (rendering assistance),

b) claims resulting from any damages to cargo, passengers or their luggage caused by delays in the maritime transport,

c) claims resulting from other damages caused by a breach of noncontractual rights directly connected to the ship employment or from the operation of salvage and assistance,

d) claims of another person, not being the person subject to liability, for measures undertaken with the purpose of preventing or reducing damages for which the person liable may limit his liability according to this part of the Code, and from further damages resulting from these measures.

(2) Claims mentioned in Paragraph 1 of this Article shall be subject to the limitation of liability even if a lawsuit has been initiated, on contractual or noncontractual basis, on the basis of reimbursement or guarantee. However, the claims referred to in Paragraph 1, Point d) shall not be subject to the limitation of liability to the extent that they refer to indemnity on a contractual basis with the person liable.

Article 389

This part of the Code shall not apply to:

a) claims on account of salvage and assistance or contribution in general average,

b) claims resulting from damages prescribed by provisions of Articles 813 – 823 of this Code,

c) claims subject to an international convention or national law governing or banning the limitation of liability for nuclear damages,

d) claims prescribed by provisions of Title VI, Part VIII of this Code,

e) claims by employees of the ship operator or salvor the assignments of whom are related to the ship employment or to the operation of salvage and assistance, including the claims of their heirs, successors or other persons having grounds for such claims.

Article 390

(1) The ship operator shall lose the right to the limitation of liability as stipulated by Article 388 of this Code when it has been proved that damages have occurred as a result of

activities or omissions which the ship operator had performed, either intentionally or by gross negligence, and with the knowledge that there is probability these damages could occur.

(2) The ship operator shall not limit his liability for damages resulting in loss of life or personal injury of persons in his service.

Article 391

(1) The extent of liability for claims arising from one and the same event, with the exception of those indicated in Article 392 of this Code shall be calculated as follows:

1) for claims resulting from loss of life or personal injury,

(a) 333,000 accounting units of Special Drawing Rights for a ship the tonnage of which does not exceed 500 tons,

(b) for a ship the tonnage of which exceeds 500 tons, the following amount shall be calculated as an addition to the amount given in Subparagraph (a):

- 500 accounting units of Special Drawing Rights for each additional ton from 501 to 3000 tons,

– 333 accounting units of Special Drawing Rights for each additional ton from 3,001 to 30,000 tons,

– 250 accounting units of Special Drawing Rights for each additional ton from 30,001 to 70,000 tons, and

– 167 accounting units of Special Drawing Rights for each additional ton exceeding 70,000 tons,

2) as regards other claims:

(a) 167,000 accounting units of Special Drawing Rights for a ship the tonnage of which does not exceed 500 tons,

(b) for a ship the tonnage of which exceeds 500 tons, the following amount shall be calculated as an addition to the amount given in Subparagraph (i):

– 167 accounting units of Special Drawing Rights for each additional ton from 501 to 30,000 tons,

– 125 accounting units of Special Drawing Rights for each additional ton from 30,000 to 70,000 tons, and

- 83 accounting units of Special Drawing Rights for each additional ton exceeding 70,000 tons.

(2) When the amount calculated in accordance with Paragraph 1, Point 1) herein is insufficient for a complete settlement of claims indicated in the said Paragraph, the amount calculated in accordance with Paragraph 1, Point 2) shall be available for the compensation of the outstanding balance of the claim from Paragraph 1, Point 1) herein, and this outstanding balance shall compete proportionally with the claims indicated in Paragraph 1, Point 2 of this Article.

(3) The limitation of liability for a salvor not performing the operation of salvage from a ship or a salvor acting exclusively on board a ship to which or in relation to which salvage services have been provided, shall be calculated on the basis of 1,500 tons of tonnage.

(4) For the purposes of this part of the Code the ship tonnage shall be the gross tonnage calculated according to the rules for tonnage measurement stipulated by Appendix 1 of the International Convention on the Tonnage Measurement of Ships, 1969.

Article 392

(1) For claims resulting from loss of life or personal injuries of a passenger on board a

ship and arising from the same event, the extent of the ship operator's liability amounts to 175,000 accounting units of Special Drawing Rights multiplied by the number of passengers the ship is entitled to carry according to the certificate of registration.

(2) For the purposes of this Article "claims resulting from loss of life or personal injuries of a passenger on board" shall mean any claim set out by a person transported by the ship or for his account:

a) based on a contract on the transport of passengers, or

b) who upon the ship operator's consent accompanies a vehicle or live animals based on a contract for the transport of goods.

Article 393

The amounts specified in Articles 391 and 392 of this Code shall be converted into the local currency according to the exchange rate of the Croatian National Bank on the date the fund is created, which shall be paid or an adequate guarantee pertaining to them shall be offered.

Article 394

(1) The extent of liability provided in Article 391 of this Code shall apply to the aggregate of claims arising from the same event:

a) regarding a person or persons indicated in Article 386, Paragraph 1 of this Code, as well as to any party for whose acts, omissions or failures the said person or persons are liable, or

b) regarding the ship owner services of salvage (or assistance) from this ship, and to the salvor or salvors acting from the ship as well as to any party for whose acts, omissions or failures the said person or persons are liable, or

c) regarding the salvor or salvors not acting from the ship or acting exclusively from the ship on board which they are or in relation to which services of salvage (or assistance) have been offered, as well as to any party for whose acts, omissions or failures the salvor or salvors are liable.

(2) The limitations of liability specified in Article 392 of this Code shall apply to the aggregate of claims arising from the same event in relation to a person or persons indicated in Article 386, Paragraph 1 of this Code, pertaining to the ship referred to in Article 392 of this Code against any person for whose acts, omissions or faults the said person or persons are liable.

Article 395

(1) The ship operator wishing to limit his liability shall be under the obligation to constitute a limited liability fund.

(2) If a ship operator makes a reference to the limitation of liability, and the limited liability fund has not been constituted, provisions of Article 397 of this Code shall apply accordingly.

Article 396

(1) Any person being subject to liability is entitled to constitute a limited liability fund.

(2) The limited liability fund shall be constituted to the amount calculated according to Articles 391 and 392 of this Code, as applied to claims for which the said person may be held liable, increased for the interest starting from the date the event giving rise to liability has occurred, until the date the limited liability fund has been constituted.

(3) Any fund constituted in this manner shall be available exclusively for the payment of claims for which the limitation of liability may be invoked.

prijevod: Jasenka Težak Štefanić

(4) The limited liability fund may be constituted either by depositing an amount or by issuing guarantees.

(5) The limited liability fund constituted by one of the persons mentioned in Article 394, Paragraph 1, Points a), b) or c) or Paragraph 2 of this Code, or by his insurer, shall be considered as constituted by all the persons mentioned in Paragraph 1, Point a), b) or c) or Paragraph 2 of this Code.

Article 397

(1) By way of derogation from provisions of Article 394, Paragraphs 1, 2 and 3, and Article 392 of this Code, the limited liability fund shall be divided among the creditors in proportion to the amount of their recog

entitle the proposing party to limit his liability have not been met, it shall render a ruling rejecting the request submitted.

(2) When the court has established that resources of the proposed limited liability fund shall not be at free disposal of the creditors, it shall reject the request for the constitution of this fund, however, proceedings pertaining to the limitation of liability shall continue, as though the proposing party has invoked the limitation of liability without the intention of constituting a limited liability fund, provided the requirements prescribed by this Code entitling the proposing party to limit his liability have been met.

Article 404

(1) When the court has established that the request made in the proposal for instituting proceedings for the limitation of the ship operator's liability complies with provisions of this Code pertaining to the requirements for the limitation of liability, it shall render a ruling approving this limitation of liability.

(2) If the court finds that the assets of the proposed limited liability fund shall be at free disposal of the creditors, it shall render a ruling approving the constitution of the limited liability fund.

(3) In the ruling referred to in Paragraph 2 of this Article the court shall summon the proposing party within 15 days from the date this ruling has been delivered to submit evidence to the court, showing that the assets approved for the constitution of the limited liability fund are at the court's free disposal, and that he has deposited in advance a specific amount necessary to cover the costs to be incurred in the course of or in connection with these proceedings.

(4) If the proposing party fails to proceed in conformity with provisions of Paragraph 3 of this Article, the court shall render a ruling revoking the ruling on the constitution of the limited liability fund.

(5) In its ruling the court shall warn the proposing party of the consequences resulting from his failure to proceed in accordance with provisions of Paragraph 4 of this Article.

Article 405

(1) The ruling on limiting the liability of the proposing party shall be rendered by the court without deferment.

(2) The limited liability fund shall be considered to have been constituted on the date when the proposing party submits evidence to the court that he has acted in accordance with provisions of Article 404, Paragraph 3 of this Code.

(3) A ruling on constituting a limited liability fun establishing that the limited liability fund has been constituted shall be rendered by the court within 24 hours from receipt of evidence indicated in Paragraph 2 of this Article.

(4) Rulings on the limitation of liability and rulings on constituting limited liability funds shall be published in the "Official Gazette" – on the bulletin board of the court, and where appropriate in other adequate ways.

(5) The ruling shall be delivered to the proposing party and all creditors to the claims of whom the limitation of liability refers to, and whose seat or residence has been made known to the court.

Article 406

The ruling pertaining to the limitation of the ship operator's liability or the constitution of a limited liability fund shall contain:

1) the name of the ship operator, his port of registration and nationality, or the mark and

place of the boat registration,

2) the company or the name and seat or the personal name, residence and nationality of the proposing party,

3) the event to which the ship operator's limited liability refers to,

4) the amount of liability limitation and the ruling pertaining to the constitution of the limited liability fund and the date of its constitution,

5) summons to the creditors to report to the court claims for which liability is being limited, or claims which are, according to provisions of this Code, to be paid from the limited liability fund within a period of 30 days from the date the ruling on the limitation of liability has been issued or the date the constituting of a limited liability fund has been published in the Official Gazette, regardless of whether a lawsuit has been initiated regarding these claims or a final decision reached, accompanied by a warning of consequences regarding the omission mentioned in Article 416 of this Code,

6) the place and the time of the hearing for the examination of claims.

Article 407

(1) If distrainment proceedings or proceedings for securing claims which, according to provisions of this Code, are to be settled from the constituted limited liability fund are being conducted against any person who is entitled, based on this Code, to limit his liability (Articles 386 and 387), and to whom the limited liability fund relates at the time of its founding, the distrainment court shall, upon request of this person, revoke by a ruling the distrainment procedure or the security procedure, and shall furthermore revoke all activities conducted in these proceedings.

(2) The party at whose request the court has revoked the distrainment proceedings or the security proceedings shall bear his costs of the proceedings revoked, and shall be obliged, upon request of the opposite party, to pay the latter's expenses.

(3) After the constitution of the limited liability fund it shall no longer be possible to seek the institution of regular distrainment proceedings or security proceedings for securing claims which, according to provisions of this Code, are to be settled from the constituted limited liability fund.

(4) When a ruling on the limitation of liability has been rendered, and a limited liability fund has not been constituted, the court shall, through distrainment proceedings or security proceedings, permit the distrainment or security solely to the amount of the limitation of liability, provided the person who invokes the limitation of liability submits to the court a ruling on the limitation of liability and evidence of its publishing in accordance with this Code.

Article 408

(1) Creditors with claims in a foreign currency shall report their claims in the counter value of kuna, calculated according to the mean exchange rate of the Croatian National Bank for the adequate foreign currency on the date the limited liability fund has been constituted.

(2) A prescribed default interest shall apply to claims reported in due time (Article 406, Point 5)), starting with the date of constituting the limited liability fund and to all other claims from the date of their reporting.

(3) The examination of reported claims shall be carried out at the hearing for the examination of claims.

(4) The proposing party and all creditors who have reported their claims before the closure of the hearing for the examination of claims shall be entitled to take part in the hearing

as parties.

(5) An absence of a party from the hearing shall not prevent the court from holding the hearing.

(6) The court shall request all parties present to state their positions concerning the claims reported, and the ground for the limitation of liability of the proposing party.

Article 409

(1) It shall not be considered that by reporting his claim the creditor has recognised the right of the proposing party to pay the reported claim from the constituted limited liability fund.

(2) A creditor may not contest the claim of another creditor by maintaining that it cannot be paid from the constituted limited liability fund, when the event giving rise to the claim had been caused by the ship operator intentionally or by gross negligence, with the knowledge that there is probability these damages could occur (Article 390).

(3) It shall be considered that the party proposing the constitution of the limited liability fund and the creditors recognise that the claim reported exists and that it could be settled from the constituted limited liability fund, unless this is contested both by a submission and orally at the hearing before the closure of the hearing for the examination of claims.

Article 410

(1) If the creditor contests that his claim is subject to the limitation of liability of the proposing party, and the proposing party disagrees with such contestation, the court shall instruct the creditor by a ruling to initiate a lawsuit against the proposing party within 30 days from the date of the ruling delivery, to determine that the creditor's claim is not recoverable from the limited liability fund.

(2) If the creditor fails to comply with the court ruling within the term specified in Paragraph 1 of this Article, or if he withdraws the lawsuit initiated, it shall be considered that he has renounced his contestation that his claim is subject to the limitation of liability of the proposing party.

Article 411

(1) If a creditor contests the existence or the amount of the claim of another creditor or the right for his claim to be settled from the limited liability fund, the court shall instruct the creditor whose claim has been contested by a ruling to initiate a lawsuit within 30 days from the date of the ruling delivery, against the proposing party and all creditors who have contested his claim or the amount of the claim, in order to determine the existence and the amount of the claim, or the right to the claim settlement from the limited liability fund.

(2) If the creditors contest another creditor's claim determined by a final verdict passed in the lawsuit by a court or another competent authority against the proposing party, the court shall instruct the creditor or creditors contesting this claim by a ruling to initiate a lawsuit within 30 days from the date of the ruling delivery, to determine that the claim does not exist.

(3) If the creditors instructed by the court to initiate a lawsuit within the term referred to in Paragraphs 1 and 2 of this Article fail to proceed in accordance with the court ruling, or if they withdraw the lawsuit initiated, it shall be considered that in the case referred to in Paragraph 1 of this Article the claim had not been reported, and in the case referred to in Paragraph 2 of this Article that the claim had not been contested.

Article 412

(1) If the proposing party contests the existence or the amount of the creditor's claim, the court shall instruct the creditor by a ruling to initiate a lawsuit against the proposing party

within 30 days from the date of the ruling delivery, to determine the existence and the amount of his claim.

(2) The proposing party shall not

prijevod: Jasenka Težak Štefanić

Article 421

(1) The proposing party and creditors referred to in Article 419 of this Code shall be entitled to take part in hearings as parties.

(2) An absence of a party from the hearing shall not prevent the court from holding the hearing.

(3) The court shall request all parties present to state their positions concerning the draft for the distribution of the limited liability fund and their objections to the draft.

(4) The court shall render a decision on the distribution of the constituted limited liability fund based on results of the proceedings, and by taking into account the written submissions of the parties.

Article 422

The court shall have the obligation, within three days from the date when the ruling on the distribution of the limited liability fund against which no legal remedy had been employed became final, or from the date when the appellate court delivers a final ruling to the court of the first instance, to issue an order for the payment of creditors' claims to whom the ruling on the distribution refers to.

Article 423

(1) The reporting of claims in proceedings for the limitation of the ship operator’s liability shall with respect to the interruption of the limitation period have the same effect as initiating civil action.

(2) As regards the claims that were contested in the proceedings for the examination of claims, it shall be considered that the limitation period was interrupted from the date of reporting the claims until the expiration of the period for instituting a lawsuit according to provisions of Articles 411 and 412 of this Code, or from the date when the verdict in which it was determined that the creditors' claims were not to be paid from the limited liability fund, became final.

(3) The limitation period for claims which on the basis of a ruling on the distribution of the limited liability fund are to be paid from the fund, begins again when the ruling on the distribution becomes final.

Article 424

(1) The court shall establish a separate deposit from the assets of the limited liability fund, according to the rules on the establishment of court deposits for creditors whose claims it has not been able to pay even within one month from the date the payment order has been issued (Article 422).

(2) The court deposit shall be placed in a bank for a fixed term with an adequate interest rate for a term which should correspond to a period before the expiration of which, according to the court verdict, the conditions for the payment of the creditors' claims cannot be fulfilled.

Article 425

In the procedure for the limitation of the ship operator’s liability each party shall bear their own costs, unless otherwise stipulated by this Code.

Article 426

The term for lodging an appeal against rulings reached in the process of limiting the ship owner’s liability shall be eight days from the date of the ruling delivery.

Article 427

In the process for the limitation of the ship operator’s liability the parties and the public

prosecutor may, against a court ruling by which the court proceedings have been finally concluded, employ all legal remedies that may be used against verdicts rendered in civil actions.

3 Conditions for the Operation of a Ship Operator in International Navigation

Article 428

(1) Within the meaning of provisions of this Chapter of the Code, a ship in international navigation is a ship sailing from a Croatian port to a foreign port or vice versa, or between foreign ports, or sailing in the open sea or in the territorial waters of other countries in order to offer services pertaining to activities in the open sea like exploration and exploitation of energy sources and the like.

(2) A ship in public transport in coastal liner service sailing between Croatian and foreign ports shall not be considered as a ship in international navigation.

Article 429

(1) Registered companies which operate in the field of shipping trade shall not pay profit tax for the profit made from the employment of ships in international navigation, as stipulated by the Profit Tax Act.

(2) Companies from Paragraph 1 of this Article shall not pay the profit tax for profit made from the sale of ships, the sale of shares or parts in shipping companies operating in international navigation, and for profit from dividends pertaining to shares they own in shipping companies operating in international navigation.

(3) If the companies from Paragraph 1 of this Article manage the stipulated shares from a single business seat of the management, under a single name and leadership, they shall have the obligation to keep business books and prepare financial reports for the overall operation both domestically and abroad.

Part Seven

CONTRACTS

Title I

SHIPBUILDING CONTRACT

Article 430

(1) The shipbuilding contract is contract binding the shipbuilder to construct a new ship in accordance with its design and technical documentation, and within a certain time period, while the ordering party is bound to pay the stipulated price for the constructed ship.

(2) The contract on reconstruction or repair of a ship is a contract by which the ship repairer is bound to reconstruct or repair the existing ship within a certain time period, while the ordering party is bound to pay remuneration to the ship repairer for the stipulated reconstruction or repair of the ship .

(3) Provisions of this Code pertaining to shipbuilding contracts shall equally apply to contracts on construction of a boat or yacht.

Article 431

(1) The shipbuilding contract as well as any amendments to it shall be drawn up in writing.

(2) The shipbuilding contract as well as any amendments to it drawn up contrary to provisions of Paragraph 1 of this Article shall have no legal effect.

Article 432

Unless otherwise stipulated by the shipbuilding contract, a ship under construction shall be

considered to be the property of the shipbuilder.

Article 433

The shipbuilder shall conduct the construction of the ship according to the shipbuilding contract and the rules of profession and in such a manner so as to enable the ship to obtain the seaworthiness certificates prescribed by this Code, and any other certificates required by the shipbuilding contract.

Article 434

(1) The ordering party shall have the right to supervise the construction of the ship and may appoint one ore more supervisors for this purpose. The ordering party shall notify the shipbuilder in writing regarding the appointment and any replacement of supervisors.

(2) All expenses connected with the operation of supervisors shall be borne by the ordering party.

(3) The shipbuilder shall have the obligation to allow the supervisors to conduct supervision during construction.

(4) If the shipbuilding supervisor establishes that certain works are not being carried out in accordance with provisions of Article 434 of this Code, he shall immediately notify the shipbuilder about this in writing.

(5) If the shipbuilder does not agree with remarks of the shipbuilding supervisor, the latter shall notify the ordering party in writing about this without delay, and request that the proceedings stipulated by the contract for such cases be initiated.

(6) If no provisions exist in the contract pertaining to proceedings indicated in Paragraph 5 of this Article, or should the contracting parties not accept the results of such proceedings, the dispute shall resolved by a court.

Article 435

When the shipbuilder has ordered or acquired parts or accessories for the ship from persons designated by the ordering party, the shipbuilder shall be liable for the workmanship and any defects in the parts and accessories ordered or acquired, unless he can prove that he was unable to notice these defects by exercising due diligence.

Article 436

(1) When the shipbuilder has ordered or acquired parts or accessories for the ship from persons designated by the ordering party, the shipbuilder shall be liable for the workmanship and any defects in the parts and accessories ordered or acquired, unless he can prove that he was unable to notice these defects by exercising due diligence.

(2) When the material for the construction of the ship has been supplied by the ordering party, the shipbuilder shall examine it, and should he discover certain defects, he shall notify the ordering party about this without delay.

(3) If the shipbuilder does not comply with provisions of Paragraph 2 of this Article, he shall be liable for damages caused by defects in the material.

(4) The shipbuilder shall not be liable under provisions of Paragraph 3 of this Article if the ordering party has requested that such material be used in the construction of the ship despite the warning that the material is defective.

(5) If the shipbuilder is not at the same time the designer, he shall be liable for those defects in the construction of the ship carried out in accordance with the design which he could have discovered by exercising due diligence.

(6) The shipbuilder shall not be liable under provisions of Paragraph 5 of this Article if the

ordering party has, despite the warning, requested that works be carried out in accordance with the design.

Article 437

The shipbuilder and ship repairer have the right to retain the ship being under construction or repair at the shipyard port until payment to them has been completed in accordance with the contract on the construction or repair of the ship.

Article 438

(1) The shipbuilder shall at his expense and risk eliminate within an adequate time period the defects for which he is liable under provisions of Articles 433, 434 and 436 of this Code.

(2) If the defects cannot be eliminated, the ordering party may request an adequate reduction of the price.

(3) If the defect which cannot be eliminated is significant, the ordering party shall have the right to cancel the contract.

(4) Provisions of Paragraphs 1 to 3 of this Article shall not have influence on the ordering party's right to the compensation of damages.

(5) The shipbuilder shall not be relieved from the obligations specified in Paragraphs 1 to 4 of this Article even when the ordering party has not objected during construction of the ship to the design prepared by the shipbuilder, to the material used, and to the way the works were performed.

Article 439

The shipbuilder shall be liable for latent defects discovered within one year counting from the date the ship has been delivered to the ordering party, provided that the latter has notified the shipbuilder of the defects in the ship as soon as these have been discovered.

Article 440

(1) Provisions of Articles 431 and 439 of this Code shall apply accordingly to the contract of reconstruction and repair of a ship, with the exception of dry-docking of the ship, provided dry-docking is conducted as separate work with tariff application.

(2) When dry-docking is conducted under a separate contract, provisions of this Code governing other maritime navigational operations (Articles 643 – 647) shall apply accordingly.

Article 441

(1) The shipbuilder's obligations under provisions of Article 439 of this Code shall expire with the statute of limitations one year after the date on which the shipbuilder has been notified of the ship’s defects according to the Article 439 of this Code.

(2) The terms of the shipbuilding contract stipulated contrary to provisions of Paragraph 1 of this Article shall have no legal effect.

Title II

CONTRACTS ON THE EMPLOYMENT OF SHIPS

1 Common Provisions

Article 442

Contracts on the employment of ships are: contracts on the maritime navigational operations and charter by demise contracts.

Article 443

Contracts on the maritime navigational operations comprise:

contracts on the transport of goods by sea, contracts on the transport of passengers by sea,

contracts of towage or of pushing of ships at sea and contracts pertaining to other maritime navigational operations.Article 444

Unless otherwise stipulated by this Code, provisions governing particular contracts on maritime navigational operations shall equally apply to other contracts on maritime navigational operations.0}

Article 445

The terms in this Title of the Code shall have the following meanings:

1) *charterer* is the contracting party that orders the transport of goods, passengers, towage or pushing from the carrier as well as other maritime navigational operations,

2) *shipper* is the charterer or a person appointed by him to deliver goods for transport to the carrier based on a contract on the transport of goods,

3) *consignee* is the person entitled to accept the delivery of the goods from the carrier,

4) *transport beneficiary* is a person with specific rights based on the contract on the transport of goods (charterer, shipper, consignee),

5) *lay-time* is the regular time permitted for the loading or unloading of cargo which is not subject to a special fee,

6) *demurrage* is the period of time during which the loading or unloading of cargo may be extended after the expiration of the laytime, and which is subject to a special fee.

Article 446

(1) Provisions of Articles 442 - 674 of this Code shall equally apply to:

1) warships,

2) boats.

(2) By way of derogation from Paragraph 1, Point 1) of this Article the following provisions shall not apply to contracts for the employment of warships:

1) provisions governing time charters for the whole ship (Articles 450, 451, 582 and 584 and provisions of Articles 447 and 449 which refer to the said contract),

2) provisions governing the right of the charterer to conclude a contract on the transport of goods with a third person (Article 452),

3) provisions governing the transport of passengers and luggage (Articles 598 - 633), with the exception of provisions regulating the carrier's liability for death or personal injury of passengers (Articles 612 and 620, and provisions of Articles 613, 614, 615, 619, 624, 625, 627, 628, 631 and 632 referring to the said liability) as well as provisions of Article 610 of this Code,

4) provisions governing the charter by demise (Articles 658 – 672),

(5) provisions of Articles 459 and 577 of this Code.

2 Contracts on the Maritime Navigational Operations

a) Transport of Goods

COMMON PROVISIONS ON THE TRANSPORT OF GOODS

Article 447

By a contract on the transport of goods the carrier is bound to transport goods by ship, and the charterer is bound to pay the freight.

Article 448

(1) A contract on the transport of goods by ship may be concluded for the transport of goods by the whole ship, a proportional part of the ship, or in a specified space thereof (charter party), or for the transport of specific goods (maritime transport contract).

prijevod: Jasenka Težak Štefanić

(2) A charter party may be concluded for one or more voyages (voyage charter), or for specific period of time (time charter).

Article 449

(1) A voyage charter for more voyages or a time charter for the whole ship must be drawn up in writing.

(2) Contracts from Paragraph 1 of this Article which have not been drawn up in writing shall have no legal effect.

(3) In relation to contracts on the transport of goods not mentioned in Paragraph 1 of this Article, each party shall have the right to request that a document in writing is prepared regarding the concluded contract on the transport of goods.

(4) If the party requested to draw up a document in writing does not comply with this request, the other party shall be entitled to withdraw from the contract if its implementation had not yet begun.

(5) Provisions of Paragraph 4 of this Article shall not affect the right of the party requesting the document in writing to claim damages.

Article 450

(1) When a time charter has been concluded for the whole ship, its captain is bound to follow the instructions of the charterer, provided they are within the extent of the contract and in accordance with the proper ship use.

(2) When a time charter has been concluded for the whole ship, the carrier shall not be liable to the charterer for obligations assumed by the captain when fulfilling special instructions of the charterer.

Article 451

When a time charter has been concluded for the whole ship, the charterer can neither order a voyage that would expose the ship or its crew to danger that could not have been foreseen at the time the contract was concluded, nor a voyage the completion of which cannot be expected without considerably exceeding the period of time for which the contract had been concluded.

Article 452

(1) The charterer from a charter party may conclude a contract for the transport of goods with a third person for the ship referred to in the said charter party.

(2) The ship operator shall also be liable to third persons for obligations under a contract concluded in accordance with Paragraph 1 of this Article based on regulations the application of which cannot be excluded by an agreement between the parties and under the usual terms for the said type of transport.

(3) If the obligations of the ship operator have increased in case from Paragraph 2 of this Article, the charterer shall be liable to the ship operator for the said increase in obligations.

(4) If the third person with whom a contract has been concluded according to Paragraph 1 of this Article had knowledge of the charter party, the ship operator shall be liable to the said person only to the extent stipulated by the said charter party and legal regulations the application of which cannot be excluded by an agreement between the parties.

Article 453

A charterer who authorises a third person as a shipper to deliver the cargo for transport to the carrier shall be liable to the carrier for the acts and omissions of the shipper to the extent stipulated by the contract on transport.

Article 454

prijevod: Jasenka Težak Štefanić

(1) The contract on the transport of goods shall terminate if its performance is permanently made impossible due to *force majeure*.

(2) If due to *force majeure* the implementation of the contract on the transport of goods has been made impossible for a long period of time, or if it is uncertain how long the impediment might last, either party may withdraw from the contract.

(3) The party not at fault for the impediment may withdraw from the contract in case specified in Paragraph 2 of this Article, if the impediment has lasted too long or if it can be expected to last too long.

(4) Each party is furthermore entitled to withdraw from the contract if the safety of the ship, its crew or cargo could be endangered due to *force majeure* or any other circumstance that cannot be averted or prevented and that could not have been foreseen at the time the contract was concluded and could last for a long period of time or when its duration cannot be determined.

Article 455

(1) If the contract for the transport of goods has been terminated or cancelled in accordance with Article 454 of this Code, the carrier shall be entitled to reimbursement of the expenses incurred in connection to unloading, and when the contract has been terminated or cancelled for a reason that occurred after the ship had left the port of loading, the carrier shall be entitled to freight in proportion to the distance effectively covered.

(2) With the exception of the carrier's right to compensation according to Paragraph 1 of this Article, contractual parties are not entitled to any other compensation from one another.

Article 456

(1) In a charter party for the whole ship the charterer may withdraw from the contract before the loading has been completed or before the demurrage has expired if the loading has not been completed by that time, provided he pays one half of the agreed freight, compensation for demurrage and other expenses incurred by the carrier and not covered by freight.

(2) Provisions of Paragraph 1 of this Article shall also apply to contracts on transport by a proportional part of the ship or in a specified space thereof, or for the transport of specific goods provided all charterers withdraw from the contract.

(3) In cases specified by Paragraphs 1 and 2 of this Article, the charterer or charterers may also withdraw from the contract after loading has been completed or demurrage has expired, even during the course of the voyage, provided they pay the stipulated freight in full, the demurrage and other expenses incurred by the carrier and not covered by the freight.

(4) When the contract on transport has been concluded on a proportional part of the ship or in a specified space thereof, any charterer may withdraw from the contract before the loading has begun, provided that he pays the stipulated freight in full, the demurrage and other expenses incurred by the carrier and not covered by freight.

Article 457

(1) Any charterer may withdraw from a contract in case specified in Article 456, Paragraph 4 of this Code, although loading has commenced, provided that he fulfils the obligations stipulated by provisions of the said Article, that the cargo may be unloaded without endangering the safety of the ship or other cargo, that the departure of the ship will neither be unduly delayed by the unloading operations nor will its sailing schedule be altered, that it will cause no damages to other charterers and that no other important reasons against unloading exist.

(2) If the carrier does not accept the withdrawal from the contract for reasons specified in Paragraph 1 of this Article, he is bound to inform the charterer about this without delay.

Article 458

prijevod: Jasenka Težak Štefanić

When, in cases of withdrawal from the contract, a bill of lading or another transport document has been issued, the charterer may withdraw from the contract once he returns all copies of the said bill of lading to the carrier or provides security against any damages that the carrier might suffer as a result of all copies of the bill of lading or another transport document not having been returned to him.

SHIP

Article 459

(1) The carrier shall be obliged to carry the cargo on a ship expressly stipulated by the contract or in one that has the stipulated features.

(2) If the parties have not expressly agreed upon a particular ship or the features thereof according to Paragraph 1 of this Article, the carrier shall be bound to transport the cargo on a ship whose features are customary for completing the contracted transport.

Article 460

(1) The ship carrier shall be bound, in due time and before commencing the voyage, to exercise the due diligence in making the ship seaworthy, in properly equipping, manning and stocking it with the necessary supplies and making it fit to have the cargo loaded, stowed, preserved, transported and unloaded in the same condition as when it had been received for transport.

(2) Contract terms contrary to provisions of Paragraph 1 of this Article shall have no legal effect.

Article 461

The space in the ship not customarily used for the stowage of cargo may be used for this purpose only by explicit agreement between contractual parties, provided the said agreement is not contradictory to legal regulations.

Article 462

(1) The carrier may, upon consent of the charterer, replace the ship specified in the contract by another.

(2) If transport is conducted based on a maritime transport contract, the ship may be replaced by another without consent of the charterer.

Article 463

The carrier shall be liable for the accuracy of statements regarding the deadweight capacity of the ship indicated in the charter party if the difference exceeds 5%.

Article 464

If transport by the whole ship or a specified part thereof has been contracted but the contracted space has not been entirely used, the carrier shall not dispose of the remaining space without consent of the charterer.

CARGO LOADING

Article 465

The carrier shall bring the ship to the agreed port for loading.

Article 466

If, for reasons for which the charterer is not liable, the ship cannot be brought to the stipulated port, the charterer, keeping the objective of the contract in mind, shall have the right to designate the nearest suitable port to which the ship may arrive safely for the loading of cargo.

Article 467

prijevod: Jasenka Težak Štefanić

(1) The loading place at the port shall be secured by the charterer.

(2) In liner services the loading place at the port shall be secured by the carrier.

Article 468

(1) The carrier shall bring the ship to the loading place designated by the charterer in accordance with Article 467 of this Code if this can be accomplished without danger for the ship and if the cargo can be loaded at the said place without danger to the ship.

(2) If the loading place does not comply to conditions from Paragraph 1 of this Article, the carrier shall bring the ship to another place as near as possible to the initial one, provided he can do so without danger to the ship and that the cargo can be loaded at the said place without danger to the ship.

Article 469

A ship may take delivery of the cargo at anchorage if so stipulated by a contract or local practice.

Article 470

If based on a contract the charterer or another person has the right to designate the port of loading, but the captain does not receive such an order within the time agreed or in due time, or if the captain is unable to fulfil this order, he shall act according to the best of his knowledge, and shall take into account the interests of the transport beneficiaries.

Article 471

If based on the contract the ship must arrive at a designated port within a certain time, the ship shall be considered to have arrived when it reaches the port or the anchorage thereof.

Article 472

(1) The captain shall notify the shipper in writing that the ship is ready to load, hereinafter: (notice of readiness).

(2) The notice of readiness shall be presented to the shipper at his address during office hours.

(3) If the captain does not know the address of the shipper or if the notice of readiness cannot be delivered to his address, the captain shall request the charterer for instructions, and the legal effects pertaining to the delivery of the notice of readiness shall be in force from the time this notice would have been delivered had there been no hindrance specified above.

Article 473

(1) A notice of readiness shall not be presented for ships in liner service.

(2) Ships in liner service shall commence loading as soon as the ship is ready to load at the designated place.

Article 474

(1) The captain may present the notice of readiness if the ship is ready to load and is at the place in the port specified by Articles 465, 466, 468 and 469 of this Code, provided he has previously obtained free pratique and the loading permit and has performed all other acts permitting the loading of the cargo on the ship.

(2) The notice of readiness may be presented even if the ship has not been brought to the place designated in Paragraph 1 of this Article provided this has been prevented for reasons arising from the charterer's responsibility.

Article 475

The carrier shall take over the cargo under tackle.

prijevod: Jasenka Težak Štefanić

Article 476

(1) When the cargo is to be loaded by the shipper, the captain has the obligation to instruct him how to stow the cargo in order to avoid its damaging due to the fact that the cargo is transported by sea.

(2) When loading the cargo the shipper shall follow the captain's instructions as to the distribution of the cargo on board and other circumstances regarding the safety of the persons, the ship, its installations and equipment, other cargo on board as well as regarding the prevention of environmental pollution.

Article 477

The cargo cannot be stowed on deck without the express consent of the shipper, unless such cargo is usually stowed on deck.

Article 478

(1) The quantity of the cargo delivered for transport may be specified by the number of pieces, by weight or by volume.

(2) In case of doubt, the quantity shall be specified by the unit of measurement customarily used at the port of loading.

Article 479

(1) Different cargo may be delivered for transport in place of the agreed cargo if the terms of transport are not altered thereby to the disadvantage of the carrier, or when this does not cause delay of the ship or imperil its safety and that of other cargo on board and if the charterer provides security to cover any claims which might arise from the exchange of cargo to the carrier upon the latter's request.

(2) If the agreed cargo has already been loaded, the expenses for its unloading and the loading of the replacement cargo shall be borne by the charterer.

Article 480

The charterer or the shipper shall give the carrier instructions for cargo handling if the cargo is not encompassed by regular trade traffic and if the captain should undertake special measures when stowing it.

Article 481

(1) When the transport involves dangerous cargo, the charterer or the shipper shall inform the carrier of the nature of danger and indicate the protective measures to be taken, even if this has not been requested by the carrier.

(2) If the notice of dangerous cargo which is being transported has not been specified either in the bill of lading or in the written document providing evidence of the contract on transport, the burden of proof that the carrier had knowledge of the danger pertaining to the transport of the said cargo lies with the transport beneficiary.

Article 482

(1) The carrier shall not accept cargo for transport the import, transit or export of which has been prohibited or which is being smuggled.

(2) The carrier shall have no obligation to accept cargo for transport which is of a dangerous nature, if he neither knew nor ought to have known of the dangerous nature of the cargo at the time the contract had been concluded.

(3) The carrier shall not accept cargo for transport if its condition and the condition of its packaging may endanger the persons, the ship, the environment and other cargo with which it would or could come into contact during the voyage.

prijevod: Jasenka Težak Štefanić

Article 483

The charterer shall be liable to the carrier for damages caused to the persons, ship, cargo or the environment as well as for all other damages and expenses resulting from defective packaging.

Article 484

The charterer shall be liable to the carrier for damages caused to persons, the ship, the cargo or the environment as well as for all other damages and expenses caused by the natural state or condition of the cargo, if the carrier neither knew nor ought to have known of the nature and condition of this cargo.

LOADING TIME

Article 485

(1) The carrier shall take the delivery of cargo for transport during the working hours of the port.

(2) The port working hours are determined by the authority managing the port in accordance with the law.

Article 486

(1) Lay-time begins to run at the commencement of the forenoon or afternoon working hours, provided that the notice of readiness has been delivered no later than two hours before expiration of the respective forenoon or afternoon working hours.

(2) The duration of lay-time shall be calculated in accordance with common practices of the port.

(3) Lay-time shall be calculated according to working days or parts thereof, with a working day comprising 24 consecutive hours.

(4) Sundays, national and other holidays when no work is performed in the port, as well as periods of the time when loading operations are prevented due to weather conditions or hindrances pertaining to the ship, shall not count as working days.

Article 487

(1) Demurrage shall commence following the expiration of lay-time.

(2) The duration of demurrage shall equal the duration of lay-time.

(3) The duration of demurrage shall be calculated in days running and parts thereof without interruption.

(4) When it is not possible to work due to hindrances on the part of the ship, such time shall not count as demurrage time.

Article 488

(1) The carrier shall be entitled to special compensation for demurrage.

(2) The rate of demurrage shall be established according to the rate of demurrage of other similar ships in the same port at the same time, and if this is not possible, the rate of demurrage shall be established according to the rate of demurrage of similar ships in the nearest port at the same time.

(3) Demurrage fees shall be paid daily for the whole day in advance, however if the loading has been terminated before the end of the day for which demurrage has already been paid, the carrier shall reimburse a proportional part of the fees thereof.

Article 489

(1) If demurrage fees are not paid when due, the ship may sail away immediately with the

part of the cargo that has already been loaded.

(2) In case from Paragraph 1 of this Article, the carrier shall retain the right to the full freight and demurrage fees, as well as to other claims to which he is entitled under the contract.

Article 490

(1) After the expiry of demurrage the ship may immediately sail away with the loaded part of the cargo.

(2) In case from Paragraph 2 of this Article, the carrier shall retain the right to the full freight and demurrage fees, as well as to other claims which he is entitled to under the contract.

Article 491

(1) The loading of cargo located along the side of the ship until the expiry of lay-time or demurrage, if applicable, shall not be refused by the carrier, even when the loading and arranging of such cargo may delay the ship after the expiry of the lay-time or demurrage.

(2) In case from Paragraph 1 of this Article the carrier shall be entitled to compensation for delaying the ship after the expiry of demurrage (exceptional demurrage time).

(3) The exceptional demurrage fees amount to 50% more than the demurrage fees.

(4) Apart from the exceptional demurrage fees the carrier is entitled also to compensation of damages for retaining the ship if these damages exceed the amount of compensation for exceptional demurrage.

Article 492

(1) When the ship may sail away with part of the cargo loaded because demurrage has not been paid when due (Article 489), the carrier shall be entitled to withdraw from the contract and unload the cargo if the loaded part of the cargo does not provide sufficient security for the carrier's claims according to the contract on transport.

(2) When unloading the cargo, the carrier shall exercise the due diligence by taking into account the circumstances of the case.

(3) In the case of withdrawal from the contract and the unloading of cargo, the carrier shall be entitled to receive the full freight, the compensation for demurrage incurred and the reimbursement for unloading expenses not covered by the freight as well as other claims to which he is entitled according to the contract.

Article 493

(1) Provisions of this Code referring to lay-time and demurrage shall not apply to transport by ships in liner service.

(2) When transport is conducted by ships in liner service, the shipper shall deliver the cargo as fast as the ship can take it.

Article 494

A ship in liner service shall not be bound to wait for loading beyond the sailing time indicated in the sailing schedule provided that the ship is not at fault for the delay in loading.

Article 495

(1) The shipper shall give the captain customs documents and other documents required for loading, transport and unloading of cargo on time.

(2) When these documents have not been provided by the expiration of lay-time or demurrage, and in case of transport by ships in liner service by the time determined for departure, the captain may unload the cargo.

(3) In case from Paragraph 2 of this Article the carrier shall be entitled to full freight,

demurrage fees and to the compensation of damages for retaining a ship in liner service as well as for any other damages.

SHIPPING DOCUMENTS

Article 496

Upon the completion of loading, the carrier shall issue a bill of lading, a freight certificate, an electronic data exchange or another shipping document to the shipper at his request.

Article 497

(1) If the cargo has been delivered to the carrier before loading, the shipper may request a receipt on taking over the cargo, a bill of lading or another transport document from the carrier bearing the visible remark "received for shipment".

(2) A carrier who has issued a bill of lading or another shipping document may, in place of issuing a bill of lading or another shipping document confirm that the loading had been completed by inserting the remark "loaded" in the received shipment document.

Article 498

(1) If the carrier has issued a shipping document for shipment, the shipper shall, on obtaining the shipping document, return the shipping document for shipment to the carrier.

(2) When a receipt for assuming the cargo has been issued prior to the shipping document, the shipper shall return the said receipt to the carrier upon receiving the shipping document.

Article 499

(1) If the cargo to be transported had to be loaded into different ships, or if it consists of different types of goods or has been divided into different lots, both the carrier and the shipper shall have the right to request that a separate bill of lading or another shipping document be issued for each ship employed, or for each type of goods, or for each lot of cargo.

(2) If the cargo is loaded in bulk, the shipper may request that separate bills of lading or other shipping documents be issued for a certain quantity of cargo.

Article 500

Agreements between the parties which are contrary to provisions of Article 496 and Article 497, Paragraph 1 of this Code shall have no legal effect.

Article 501

(1) A bill of lading may be issued to a person, by order or to a holder.

(2) If the person by the order of whom the carrier must deliver the bill of lading has not been named in the bill of lading, the cargo shall be delivered by order of the shipper.

Article 502

(1) A bill of lading issued to a named person is transferable by cession, a bill of lading issued by order by endorsement, and a bill of lading issued to a holder by delivery.

(2) Provisions of the law pertaining to promissory notes, with the exception of provisions pertaining to reimbursement, shall apply accordingly to the form and effects of endorsement.

Article 503

At the shipper's request the carrier shall issue several original copies of bills of lading, indicating on each one the total number of original copies issued.

Article 504

(1) Each party may request that several copies of the bill of lading be issued for its use.

(2) Each copy of the bill of lading shall indicate that it is a copy.

prijevod: Jasenka Težak Štefanić

(3) At the carrier's request, the shipper shall sign the copy of the bill of lading.

Article 505

(1) A bill of lading contains:

1) the company or the name and seat or the name and residence of the carrier issuing the bill of lading,

2) the name or other facts regarding the ship identity,

3) company or the name and seat or the name and residence of the shipper,

4) company or the name and seat or the name and residence of the consignee or a remark “by order” or “to the holder”,

5) the port of destination, or the time or place when the said port shall be determined,

6) the amount of cargo specified by the number of pieces, weight, volume or another unit of measurement, depending on the type of cargo,

7) the type of cargo and marks thereon,

8) the apparent condition of the cargo or the packaging,

9) provisions regarding freight,

10) the place and date the cargo was loaded and the bill of lading issued.

(2) The bill of lading may also contain other facts and terms of transport.

Article 506

(1) The bill of lading received for shipment shall also contain the data stipulated by Article 505 of this Code, with the exception of that concerning the ship identity and the place and date of loading.

(2) When indicating the remark "shipped” on the bill of lading received for shipment, the carrier shall include the data on the ship identity and the date the cargo was loaded therein.

Article 507

The bill of lading shall be signed by the carrier or his authorised representative in person.

Article 508

The bill of lading shall be drawn up by the carrier on the basis of written data provided by the shipper.

Article 509

If reasonable grounds for doubt exist that the data provided by the shipper regarding the type of cargo or marks thereon, or its quantity in number of pieces, weight, volume or other unit of measurement are not exact or complete, and if there is no reasonable means of verifying the accuracy of the said data during the loading or if the marks on the cargo are not clear or sufficiently durable, carrier may insert remarks in the bill of lading specifying his reasons for doing so.

Article 510

The shipper's signature on the bill of lading or on a copy thereof (Article 507) does not mean that the shipper agreed to the remarks the carrier had inserted in the bill of lading according to provisions of Article 509 of this Code.

Article 511

(1) When the carrier has not inserted remarks in the bill of lading according to provisions of Article 509 of this Code, it shall be presumed, in the relationship between the carrier and a third legal and conscientious holder of the bill of lading, that the carrier has received the cargo as described in the bill of lading.

prijevod: Jasenka Težak Štefanić

(2) When the carrier inserts remarks in the bill of lading according to provisions of Article 509 of this Code, it shall be presumed that he had received the cargo in the same condition as delivered to the consignee unless the legal holder of the bill of lading provides evidence to the contrary.

Article 512

(1) The written terms of the contract on transport and the carrier's general conditions shall be binding for a legal holder of the bill of lading who is neither the charterer nor the shipper solely if the bill of lading expressly refers to the said terms and conditions.

(2) The verbal terms of a contract on transport not inserted in the bill of lading shall not be binding for an authorised holder of the bill of lading who is neither the charterer nor the shipper even in cases when the said terms are expressly referred to in the bill of lading.

(3) If the bill of lading only generally refers to the terms of contract on transport or to the carrier's general conditions, the holder of the bill of lading mentioned in Paragraph 1 of this Article shall not be bound by the terms of the contract on transport and the general conditions which are more onerous than those usually applied in that type of transport.

Article 513

(1) In the contract on transport the parties may agree to have a freight certificate issued instead of a bill of lading.

(2) A freight certificate shall be issued upon request of the shipper.

(3) A freight certificate shall be issued in one original copy signed by the carrier and the shipper.

(4) Signatures on the freight certificate may be printed, replaced by stamps, signature stamps or an electronic data exchange.

(5) The shipper shall be entitled to request copies of the freight certificate signed by the carrier, and likewise the carrier shall be entitled to request copies of the freight certificate signed by the shipper.

(6) The shipper may authorise another person to load the cargo and sign the freight certificate with the remark "in the name and for account of the shipper".

Article 514

(1) It shall be presumed that the issuing of a freight certificate is based on a concluded contract on transport.

(2) It shall be presumed that the freight certificate exists between the shipper and the carrier until evidence to the contrary has been provided pertaining to receiving the goods, as indicated in the freight certificate.

(3) The freight certificate between the carrier and the consignee represents evidence on receiving the goods, as indicated in the freight certificate.

(4) Solely the shipper shall be entitled to issue instructions to the carrier regarding the contract on transport, and even to change the consignee's name until the carrier receives the goods, if this has been stipulated by the contract on transport.

Article 515

(1) The carrier shall deliver the goods to the consignee based on valid identification.

(2) The shipper shall enter data into the freight certificate and its copies.

(3) Non-existence, irregularity or loss pertaining to the freight certificate shall not have influence to the validity of a contract on transport.

Article 516

(1) The following facts shall be entered into a freight certificate:

1) the place and date of its issuing,

2) the place and date of taking over the goods,

3) the company or title or the name and address of the shipper,

4) the designated place of unloading,

5) the company or title or the name and address of the consignee,

6) the description and customary name for the goods, packaging procedure, distinctive marking, weight, volume or otherwise indicated quantity, number of pieces, and when it includes dangerous substances – the note regarding this danger.

(2) The freight certificate may also contain other facts and requirements of the contract on transport.

Article 517

The carrier shall be entitled to enter a description of the remark into the freight certificate, according to Article 509 of this Code.

Article 518

(1) When the carrier does not enter remarks into the freight certificate as stipulated by Article 517 of this Code, it shall be presumed, until proven otherwise, that the goods were received as indicated in the freight certificate.

(2) When the carrier inserts remarks in the freight certificate according to provisions of Article 517 of this Code, it shall be presumed that he had received the goods in the same condition as delivered to the consignee unless the legal holder of the bill of lading provides evidence to the contrary.

Article 519

(1) Regulations pertaining to the freight certificate shall equally apply when the transport of goods based on the contract on transport is conducted on the basis of the electronic data exchange.

(2) In this case the transport beneficiary may request a document on transport in writing from the carrier at any time.

(3) It shall be presumed that in cases from Paragraphs 1 and 2 of this Article parties have agreed that the transferred and confirmed electronic data and the data located in the computer hard disk correspond to the data provided in writing.

VOYAGE

Article 520

The carrier shall complete the voyage within the agreed period of time. If the duration of the voyage has not been determined, the carrier shall complete the voyage within a reasonable period of time.

Article 521

The carrier shall complete the voyage by the route agreed upon. If the route for the voyage has not been contractually determined, the carrier shall follow the usual route.

Article 522

(1) If for any reason the ship has been prevented from embarking on a voyage or continuing a voyage that has already begun and the hindrance is expected to last for a considerable period of time, or if it is uncertain how long it may last, the captain shall request instructions from the charterer or from the person authorised to dispose of the cargo.

prijevod: Jasenka Težak Štefanić

(2) If the captain of the ship is not able to comply with provisions from Paragraph 1 of this Article or to carry out the instructions received, he shall, depending on the given circumstances, either tranship the cargo, return it to the port of departure, or act in another way taking into account the interest of the carrier and the transport beneficiary.

(3) When, in cases mentioned in Paragraphs 1 and 2 of this Article, the contract on transport has terminated either by law or due to withdrawal, provisions of this Code regulating contractual relations among the parties in cases involving contract termination (Article 455) shall apply accordingly to the rights and obligations of the contractual parties arising from the measures undertaken by the captain of the ship.

(4) When the contract has not been terminated or if the charterer's instructions cannot be carried out, the resulting damages shall be borne by the party at fault for the hindrance or the party causing the hindrance. If both parties have caused the hindrance, each party shall bear its own damages.

(5) If both parties are at fault for the hindrance, each party shall be liable for the damages in proportion to their fault.

Article 523

The charterer or the legal holder of the bill of lading may withdraw from the contract after the voyage has begun on conditions indicated in Article 456, Paragraph 3 and Articles 457 and 458 of this Code.

Article 524

(1) If the carrier does not fulfil an order received from the transport beneficiary when he is bound to do so based on provisions of this Code, he shall be liable to the transport beneficiary for all damages caused thereby.

(2) The carrier shall be bound to compensate damages to the consignee being a legal holder of the bill of lading, if he carries out the orders of the charterer although all copies of the bill of lading have not been returned to him.

(3) The amount of damages under Paragraphs 1 and 2 of this Article cannot exceed the amount the carrier would have to pay if he were liable for the total loss of the cargo.

Article 525

The carrier's obligation to compensate damages based on provisions of Article 524, Paragraph 2 of this Code shall not have influence on his right to the reimbursement from the transport beneficiary.

DELIVERY OF THE CARGO TO THE CONSIGNEE

Article 526

The carrier shall deliver the cargo to the consignee at the destination port.

Article 527

Provisions of Articles 466 - 470 and Articles 472 - 475 of this Code shall apply to the destination port and to the delivery of cargo to the consignee.

Article 528

The carrier shall deliver the cargo to the legal holder of the bill of lading or in case the said document has not been issued, to the person authorised by the contract on transport.

Article 529

(1) When no shipping document has been issued for the cargo transported, the consignee shall be entitled to request the carrier to deliver the cargo upon arrival of the ship at the destination port, provided he has fulfilled his obligations from the contract.

prijevod: Jasenka Težak Štefanić

(2) The carrier shall carry out the request of the consignee set out in Paragraph 1 of this Article unless the charterer has stipulated otherwise in his order for disposing of the cargo which are binding for the carrier.

Article 530

(1) The legal holder of the bill of lading shall be entitled to request the carrier to deliver the cargo as soon as it has arrived at the destination port, provided that he has fulfilled his obligations from the bill of lading.

(2) On taking delivery of the cargo, the legal holder of the bill of lading shall return the bill of lading to the carrier.

(3) When the cargo has been delivered at the destination port to a person holding one or more original copies of the bill of lading, the remaining original copies shall no longer be binding for the carrier.

Article 531

(1) If no shipping document has been issued for the cargo, the consignee shall be entitled to request delivery of the cargo before the ship has arrived at the destination port, provided he has been authorised in the contract by the charterer to do so.

(2) The legal holder of the bill of lading shall be entitled to request delivery of the cargo before the ship has arrived at its destination provided that conditions stated in Article 456, Paragraph 3 and Articles 457 and 458 of this Code have been fulfilled.

Article 532

The carrier shall be entitled to request the person to whom the cargo has been delivered to issue a receipt for the delivered cargo.

Article 533

If the cargo covered by one shipping document is delivered in parts, the carrier may request that the receipt of a part of the cargo be confirmed on the said shipping document or by special receipt.

Article 534

(1) If no shipping document for the cargo transported has been issued, the charterer shall be entitled to instruct the carrier to deliver the cargo at the destination port to another person rather the one indicated in the contract.

(2) The charterer loses the right mentioned in Paragraph 1 of this Article when the consignee, in accordance with provisions of this Code, acquires the right to request and does request delivery of the cargo from the carrier.

Article 535

Provisions of Articles 485 - 488 of this Code shall equally apply to the unloading time.

Article 536

When demurrage has not been paid when due, in order to obtain security for the payment of demurrage and other claims based on the contract on transport, the captain may unload the cargo and remain in its possession or entrust it to a public warehouse or another suitable person at the risk and expense of the consignee or another person entitled to dispose of the cargo.

Article 537

If the consignee fails to submit a written complaint regarding any damages or defects of the cargo immediately upon its receipt, it shall be presumed that the cargo has been delivered to him as described in the bill of lading, or as received for transport if no shipping document has been issued unless the consignee provides evidence to the contrary.

prijevod: Jasenka Težak Štefanić

Article 538

(1) If damages or defects are not apparent, the consignee may file a complaint in writing as set out in Article 537 of this Code within three days from the cargo delivery.

(2) The complaint from Article 537 of this Code and from Paragraph 1 of this Article must be specific.

(3) If the consignee has filed a complaint in writing as prescribed by Paragraph 1 of this Article and Article 537 of this Code, it shall be presumed that the objections therein are true until the carrier provides evidence to the contrary.

(4) A complaint shall not be necessary if the carrier and the consignee have jointly established in writing the existence of damages or shortage of cargo during its unloading and delivery.

(5) An agreement between the parties contrary to provisions of Paragraph 1 to 4 of this Article and Article 537 of this Code shall have no legal effect if it is detrimental to the transport beneficiary.

(6) The carrier and the consignee shall, as far as possible, co-operate with one another to establish the condition and quantity of the cargo at delivery.

Article 539

(1) When determining the quantity of defects in the delivered cargo, the usual loss during transport shall be taken into account.

(2) If the cargo has been lost, the usual loss shall not be taken into account.

(3) The usual loss mentioned in Paragraph 1 of this Article shall be assessed in accordance with the common practice of the port of unloading.

Article 540

The burden of proof for damages caused by a delay in the delivery of cargo, other than defects or damages to the cargo itself, shall be on the consignee.

Article 541

If the consignee does not contact him, or cannot be found, or if he refuses or is unable to take delivery of the cargo, or if several legal holders of the bill of lading or another shipping document have contacted him before commencement of the cargo delivery, the carrier shall request instructions from the shipper or the charterer.

Article 542

(1) If after having requested the shipper or the charterer for instructions as set forth in Article 541 of this Code, the carrier does not receive the said instructions in due time, or is unable to carry out the instructions received, he may act in accordance with provisions of Article 536 of this Code but shall have the obligation to inform all the transport beneficiaries that he is aware of the measures taken.

(2) When a ship is in liner service or the transport of goods is being performed under a maritime transport contract, the carrier shall immediately inform all the transport beneficiaries when he is aware of any hindrance preventing cargo delivery but shall not be bound to wait for instructions, rather he may immediately take the measures prescribed in provisions of Article 536 of this Code.

Article 543

When the carrier delivers the cargo to the possession of a public warehouse or other person, he shall be liable only for the choice thereof.

Article 544

prijevod: Jasenka Težak Štefanić

(1) If the cargo in possession of the carrier or given for keeping by him according to provisions of Articles 536 and 542 of this Code has not been claimed within 30 days after the date it was put in storage, or from the date it has been stored at the destination port, and if the freight and other claims arising from the contract on transport have not been paid, the carrier may sell the cargo or a part thereof if necessary in order to cover these claims.

(2) The carrier may sell the cargo before expiration of the period stipulated in Paragraph 1 of this Article if the sale thereof would not result in a sufficient amount to cover the carrier's claims and the expenses of storage, or if the cargo is damaged or perishable.

(3) The cargo shall be sold at a public auction unless it is perishable, damaged or if the cargo has a stock exchange price.

(4) The carrier shall exercise due diligence when selling perishable or damaged goods.

Article 545

The carrier shall be bound to deposit the amount obtained from the sale of cargo according to Article 544 of this Code at the court having jurisdiction over the place of sale to the account of the person authorised to dispose of the cargo, after having deducted his claim connected to the transport of the said cargo as well as after deducting the storage and sale expenses, and shall inform all transport beneficiaries he is aware of the said deposit without delay.

Article 546

(1) When the transport is conducted by a ship in liner service and if the carrier, by fault of the transport beneficiary, is prevented from unloading the cargo at the destination port before expiration of the time indicated in the sailing schedule for the ship's departure from the said port, the carrier may unload the cargo in another nearby port, thereby retaining the right to claim an increased freight and compensation for damages caused thereby.

(2) If the transport beneficiary is not responsible for preventing the unloading at the destination port, the carrier shall bear the expenses for the cargo transport to the said port, and if the latter is responsible for preventing the unloading, he shall furthermore be liable to compensate damages caused by the delay.

RESPONSIBILITY OF THE CARRIER FOR DAMAGES TO GOODS AND FOR DELAY

Article 547

The carrier shall be liable for any damages, defects or loss of the cargo received for transport from the time of receiving to its delivery, as well as for damages caused by a delay in delivering the cargo.

Article 548

The delivery of the cargo shall be considered delayed if the cargo has not been delivered to the consignee within the time agreed, or if no such time has been agreed when the cargo has not been delivered to the consignee in a reasonable period of time.

Article 549

The carrier shall not be liable for any damages, defects or loss of the cargo or for a delay in delivery of the cargo if he is able to prove that the said damages, defects, loss or delay were caused by circumstances that could neither be prevented nor avoided by exercising the due diligence.

Article 550

(1) The carrier shall be liable for the acts and omissions that the captain, other crew members or other persons in his employment have performed within the scope of their duties, as if these acts or omissions were his own.

prijevod: Jasenka Težak Štefanić

(2) The carrier shall not be liable for any damages, defects or loss of the cargo or for a delay in delivering the cargo caused by acts or omissions in the navigation or management of the ship, performed by the persons mentioned in Paragraph 1 of this Article.

Article 551

The ship carrier shall be liable for any damages to cargo on board caused by fire solely when it has been proved that the fire had occurred as a result of his personal act or omission.

Article 552

The carrier shall not be liable for damages to the cargo caused by the ship unseaworthiness if he proves that the he has exercised due diligence (Article 460).

Article 553

(1) The ship carrier shall not be liable for damages caused to the cargo if he is able to prove that the said damages have resulted from:

1) *force majeure*, accidents at sea, acts of war, international crimes at sea, civil commotions or riots,

2) sanitary restrictions or other measures and acts of government authorities,

3) acts or omissions of the shipper or of other persons entitled to dispose of the cargo or of persons in their service,

4) suspension of work or strikes or lockouts, or any other hindrances totally or partially preventing work,

5) salvage or attempts to save life or property at sea,

6) deviation of the ship due to causes from Point 5) of this Paragraph or for other justified reasons,

7) normal loss in weight or volume of the cargo, damages or loss arising from inherent defects, latent defects or a special nature of the cargo,

8) improper packing or marks on the cargo which are illegible or not sufficiently durable,

9) latent defects which cannot be discovered by exercising due diligence.

(2) Despite of the proof submitted by the carrier as specified in Paragraph 1 of this Article, the carrier shall be liable for damages if the transport beneficiary is able to prove that the said damages were caused by a personal fault of the carrier or by fault of the persons for whose acts and omissions the carrier is liable, provided that such acts or omissions do not involve the navigation and the management of the ship.

Article 554

(1) If this is not contrary to the existing regulations, the captain may at any time and place unload, render harmless or jettison dangerous cargo, provided that the carrier had not been informed of the said danger before loading.

(2) In cases mentioned in Paragraph 1 of this Article the carrier shall retain the right to full freight and shall not be liable for damages.

Article 555

(1) If the carrier has received dangerous cargo for transport and is aware of the danger this cargo represents, he may unload it or render it harmless if the safety of the ship, persons or other cargo on board as well as the environment are endangered thereby.

(2) If, based on Paragraph 1 of this Article, the carrier unloads the cargo before arriving at the destination port, he shall be entitled to freight in proportion to the distance covered, while each party shall bear the costs for damages resulting from having loaded the dangerous cargo and from the carrier's acts therefrom.

prijevod: Jasenka Težak Štefanić

Article 556

The carrier shall not be liable for any damages, defects or loss of the cargo or for any delay in the cargo delivery if the shipper has knowingly misstated the nature and value of the cargo.

Article 557

The charterer shall be liable to the carrier for damages caused by the charterer’s or shipper's inaccurate or insufficient facts regarding the quantity and nature of the cargo and the marks thereon.

Article 558

The charterer shall be liable to the ship operator for damages caused by the loading or transport of goods the import, export or transit of which is prohibited, or which are being smuggled, if at the time of shipment the ship operator neither knew nor ought to have known of these cargo properties.

Article 559

The person who has loaded the goods without the knowledge of the carrier shall be liable to him for damages caused thereby.

Article 560

(1) The carrier may, according to the best of his judgement, unload at any time and place and jettison any cargo loaded without his knowledge as well as any cargo which has been inaccurately or insufficiently marked, if such cargo endangers the safety of the ship, persons or other cargo on board as well as the environment.

(2) In cases mentioned in Paragraph 1 of this Article, the carrier shall retain the right to full freight and the compensation for damages and shall not be liable for damages caused by his actions.

Article 561

(1) The captain of a ship may return any cargo the import, export or transit of which is prohibited to the port of loading or may unload the said cargo at any place if he finds this necessary, and furthermore jettison it in case of emergency.

(2) If, in the case mentioned in Paragraph 1 of this Article, the carrier neither knew nor ought to have known the characteristics of the cargo, he shall retain the right to full freight and shall not be liable for the damages caused by such actions.

(3) If the carrier knew or ought to have known about the characteristics of the cargo described in Paragraph 1 of this Article, he shall retain the right to freight in proportion to the distance covered, while each party shall bear the expenses for its other damages resulting therefrom.

Article 562

(1) If the prohibition pertaining to the import, export or transit of goods has been imposed during the ship’s voyage, the captain shall act in accordance with provisions of Article 561, Paragraph 1 of this Code in respect of such cargo.

(2) In cases mentioned in Paragraph 1 of this Article, the carrier shall retain the right to full freight and the compensation for damages and shall not be liable for damages caused by his actions.

Article 563

(1) The carrier shall not be liable for the compensation of damages resulting from any damages, defects or loss of the cargo nor for a delay in the cargo delivery in an amount exceeding 666.67 accounting units of Special Drawing Rights per each package or unit of the

damaged, defective or lost cargo or cargo delivered with delay, or exceeding an amount of 2 accounting units of Special Drawing Rights per kilo of the gross weight of the damaged, defective or lost cargo, where the amount higher shall apply.

(2)The unit of cargo according to Paragraph 1 of this Article shall encompass each package or piece and in case of bulk cargo each metric ton or cubic meter or another unit of measurement which has been taken as a basis for the stipulation of freight. If the freight has not been established on the basis of a unit of measurement, the unit of measurement for bulk cargo usually applied as the basis for stipulating the freight in the loading port shall be considered as a unit of measurement.

(3) When the cargo is transported in containers, on pallets or by similar devices, in accordance with Paragraph 1 of this Article a unit of cargo shall be:

1) the package or unit of cargo indicated in the bill of lading - if the said package or unit of cargo is in a container, on a pallet, or on similar device,

2) the container, pallet or other similar device by which the cargo is transported if the package or unit of cargo is not indicated in the bill of lading.

Article 564

(1) The charterer or shipper may increase the limit of the ship operator's liability specified in Article 563 of this Code in agreement with the carrier stating therein the increased value of the goods per unit of cargo.

(2) If a document of transport has been issued, the agreement of the parties in respect to an increase in the carrier's liability which has not been indicated in the said shipping document shall have no legal effect in favour of a consignee who is neither the charterer nor the shipper.

Article 565

Unless the carrier provides evidence to the contrary, it shall be presumed that the value of the cargo is the value that the parties have agreed upon according to Article 564 of this Code.

Article 566

The carrier shall lose the right to the limitation of liability as stipulated by Articles 563 and 564 of this Code when it has been proved that damages occurred as a result of activities or omissions which the carrier had performed, either intentionally or by gross negligence, and with the knowledge that there is probability these damages could occur.

Article 567

(1) The carrier shall be liable for the value of any lost goods or a part thereof and for the depreciation in the value of any damaged goods.

(2) If the goods have been delivered with delay, the carrier shall also be liable for damages due to this delay.

(3) By way of derogation from provisions of Paragraphs 1 and 2 of this Article, a carrier who according to Article 566 of this Code cannot limit his liability shall be liable for all damages caused by any loss, shortage or damages to the goods or by a delay in the delivery thereof.

Article 568

(1) The extent of damages for the loss of goods shall be established according to the market value of other goods of the same quantity and property at the destination port on the date the ship arrives to that port, or in case of non-arrival on the date of its scheduled arrival.

(2) When the extent of damages for the loss of goods cannot be established as prescribed by Paragraph 1 of this Article, it shall be assessed according to the market value of the goods in the port of loading on the date of the ship's departure increased for transport expenses.

prijevod: Jasenka Težak Štefanić

(3) The extent of the damages for damaged goods shall be the difference between the market value of the goods if undamaged and their market value in the damaged condition.

(4) If the extent of damages for the goods lost or damaged cannot be established according to provisions of Paragraphs 1 and 2 of this Article, it shall be established by a court.

(5) The expenses saved due to the non-arrival of goods at destination or their arrival in a damaged condition shall be deducted from the amount to be paid by the carrier as compensation for the defects, loss or damages to the goods.

Article 569

(1) Provisions of Articles 563, 567 and 568 of this Code shall also apply when the captain, other crew members or any other persons in the carrier's service are liable according to general regulations for damages caused by the shortage, loss or damages of goods, provided it has been proved that the said damages were caused during or in connection with their work, or while performing their services or in connection therewith.

(2) The persons mentioned in Paragraph 1 of this Article shall not be entitled to the limitation of liability if it has been proved that they have caused the damages either intentionally or by gross negligence, and with the knowledge that there is probability these damages could occur.

Article 570

(1) The total amount of the compensation for damages due by the carrier and the persons mentioned in Article 569, Paragraph 1 of this Code shall not exceed the amount specified in Article 563 of this Code.

(2) Provisions of Paragraph 1 of this Article shall not affect provisions of Article 569, Paragraph 2 of this Code.

Article 571

The persons from Article 569, Paragraph 1 of this Code shall be liable up to the amount specified in Article 563 of this Code even if the carrier has increased the limit of his liability based on Article 564 of this Code.

Article 572

(1) Provisions of this Code pertaining to the carrier’s liability cannot be altered by contract to the detriment of the transport beneficiary.

(2) By way of derogation from provisions of Paragraph 1 of this Article, the provisions of this Code regulating the carrier's liability may be altered by contract in favour of the carrier in case of:

- damages, shortage, or loss of the cargo occurring prior to loading or after unloading,
- transport of live animals,
- the transport of cargo on deck based on a written consent of the shipper,
- damages due to delay.

(3) Contract terms contrary to provisions of Paragraphs 1 and 2 of this Article shall have no legal effect.

Article 573

Provisions of this Code regulating the carrier's liability shall apply to all contractual or noncontractual claims regardless of their grounds, against the carrier for any damages, shortage, or loss of cargo.

Article 574

Provisions of this Code pertaining to the carrier’s liability shall not affect provisions of

this Code pertaining to general average.

FREIGHT

Article 575

(1) The amount of freight shall be established contractually.

(2) If the amount of freight has not been determined by a contract, it shall be established according to the average rate of freight for an equivalent type of cargo at the time the said cargo has been loaded at the port of loading.

Article 576

(1) When the quantity of cargo loaded exceeds the stipulated quantity, the freight shall be increased proportionally.

(2) If another cargo is loaded in place of the stipulated cargo for which the freight rate is higher, the freight for the cargo actually loaded shall be paid.

(3) When the quantity loaded is less than the stipulated quantity, or if no cargo has been loaded, the freight shall be paid for the whole quantity of cargo as stipulated by contract.

(4) If the quantity of the cargo loaded is less than the stipulated quantity and the freight rate for the cargo actually loaded is higher than the freight contracted, the whole contracted freight shall be paid plus the difference between the freight contracted and the higher freight for the cargo actually loaded.

(5) Provisions of Paragraph 3 of this Article shall not affect provisions of Article 456 of this Code.

Article 577

(1) When only a part of the cargo stipulated by a charter party has been loaded, and the carrier could dispose of the unused space, the contracted freight shall be proportionally reduced.

(2) If the carrier has disposed of the unused space contrary to an express order of the charterer, the carrier shall be liable to the charterer for damages.

Article 578

(1) The freight stipulated by a voyage charter shall remain unaltered regardless of the voyage duration unless the agreed freight is payable per unit of time.

(2) If, at the request of the charterer or in the interest of the transport beneficiary, the voyage is prolonged beyond the stipulated destination, the freight shall be proportionally increased.

Article 579

(1) If the freight is payable per unit of time according to a voyage charter and the time from which the payment of freight is to commence has not been established, the time shall begin to run on the date the notice of readiness has been issued, i.e. at noon if the notice was issued before noon, and at midnight if the notice was issued in the afternoon.

(2) If the loading has begun by order of the shipper before the time indicated in Paragraph 1 of this Article or if the ship had sailed away without the cargo, the freight shall be payable from the time the loading began or from the time the ship had sailed away.

(3) The time for which the freight is payable shall terminate with the unloading of cargo, and if the ship has arrived without cargo, the time shall terminate when the ship has anchored or moored in the port where the voyage terminates, in which case the last day of the voyage shall count as a whole day.

Article 580

If freight is payable per unit of time based on a voyage charter, but the fulfilment of contract

is hindered during the voyage by the carrier without any fault of the charterer or shipper, the freight shall not be paid for the time the said hindrance lasted.

Article 581

(1) The freight stipulated by a time charter shall be paid in advance by the charterer in equal monthly instalments, however the carrier shall be entitled to the freight only for the time he had been fulfilling the contract.

(2) Under a time charter the freight shall be paid for the time the employment of the ship was hindered only if the said hindrance is on the part of the charterer or arose due to the distrainment of his order.

(3) The carrier may withdraw from the contract also when the freight has not been paid when due.

Article 582

Under a time charter for the whole ship the charterer shall in addition to paying the freight also supply fuel, lubricants and water for the ship's main engines and other machines on board at his own expense and shall pay the port charges and other navigation dues.

Article 583

(1) Under a time charter the payment of freight shall commence at the same time as under a voyage charter according to which freight is payable per unit of time (Article 579).

(2) A double freight shall be paid for the time after expiration of the time stipulated by the time charter when the ship continues to sail for the charterer without fault of the carrier.

Article 584

A salvage reward earned by a ship while under a time charter for transport by the whole ship shall be divided equally between the carrier and the charterer after deducting the expenses for salvage and the part due to the crew.

Article 585

The freight for the cargo loaded without consent of the carrier and any cargo that has been inaccurately or insufficiently marked shall be payable on the basis of the maximum freight rate applied in similar cases for the same type of cargo at the time of its loading for the same, or approximately the same route, provided the freight determined in the said way is higher than the contracted freight.

Article 586

(1) The freight shall be payable only for the cargo which has been transported and placed at the disposal of the consignee at the destination port.

(2) Apart from cases mentioned in Articles 456, 457, 489, 492, 554, 560, 561 and 562 of this Code and by way of derogation from provisions of Paragraph 1 of this Article, the freight shall also be paid for the cargo not transported or placed at the disposal of the consignee, when the non-arrival of the cargo to its destination has been caused by the charterer or the shipper, or by persons entitled to dispose with the cargo, i.e. by a person for whom they are responsible, or when the cargo has not arrived at its destination port for reasons pertaining to the cargo itself, without any fault of the carrier.

(3) By way of derogation from Paragraph 2 of this Article, the carrier shall, apart from the cases mentioned in Articles 455, 555, 561 and 587of this Code, be entitled to freight for the cargo transported only a part of the voyage in proportion to the distance covered, unless the carrier is responsible for the interruption of this voyage.

Article 587

prijevod: Jasenka Težak Štefanić

In case of shipwreck or other accident in navigation as well as in case of confiscation or detention of the ship or cargo as a result of acts of war, international crimes at sea, civil commotions or riots, the carrier shall be entitled to freight for the cargo saved in proportion to the distance covered.

Article 588

If no shipping document has been issued, the consignee shall pay the freight and other claims in connection to the transport of cargo as soon as he takes delivery thereof unless otherwise stipulated by the charterer and the carrier.

Article 589

If delivery of the cargo is conducted based on a bill of lading, the consignee shall pay only the claims mentioned in the bill of lading or those which arose after the issuance thereof.

Article 590

(1) If the consignee does not fulfil his obligations from Articles 588 - 590 of this Code, the carrier shall have the right to retain and sell the cargo according to provisions of Articles 543 - 545 of this Code.

(2) The carrier shall also be entitled to the rights specified in Paragraph 1 of this Article when delivering the cargo to a person not being the consignee.

Article 591

(1) A carrier who has delivered the cargo to the consignee shall not be entitled to request the charterer for any amount which he failed to collect from the consignee as prescribed by provisions of Article 590 of this Code.

(2) If by selling the cargo the carrier succeeds in recovering his claims only in part, he shall be entitled to request the charterer for payment of the unsettled part of his claim under conditions stipulated by Paragraph 1 of this Article.

(3) Provisions of Paragraph 1 of this Article shall not apply if the carrier proves that he was unable to act in accordance with provisions of Article 590 of this Code even by exercising due diligence.

LIENS ON GOODS LOADED ON A SHIP

Article 592

(1) Liens on goods loaded on a ship exist for:

1) court expenses incurred in the common interest of all creditors due to proceedings of distrainment or security, initiated in order to preserve or sell the goods, furthermore for the expenses of storage and supervision of such goods incurred after the ship's arrival to the last port,

2) claims involving a salvage reward or general average contributions pertaining to goods,

3) claims arising from the transport contract, including expenses for storage of the goods loaded.

(2) A lien pertaining to the principal shall also apply to interest.

Article 593

Liens on loaded goods shall not terminate by a change of the owner of goods unless otherwise stipulated by this Code.

Article 594

(1) The priority ranking for claims covered by liens on loaded goods is determined in accordance with Article 592, Paragraph 1 of this Code.

(2) If the claims mentioned in Article 592, Paragraph 1, Points 1) and 3) of this Code cannot

be settled in full, such claims shall be settled in proportion to their amounts.

(3) If the claims mentioned in Article 592, Paragraph 1, Point 2) of this Code cannot be settled in full, claims of a later date shall have priority over the earlier claims.

(4) Claims which have arisen from one and the same event shall be presumed to have risen at the same time.

Article 595

By exercising the rights of retention pertaining to the carrier according to Article 590 of this Code shall have no effect on the priority ranking of claims secured by liens on goods loaded on the ship.

Article 596

(1) The termination of a lien on the goods loaded shall not terminate the claim secured by this lien.

(2) When assigning claims covered by a lien, the lien on the goods themselves shall also be assigned.

Article 597

Liens on the goods loaded shall terminate:

1) with the extinguishment of the claim secured by lien;

2) when the goods are sold in distrainment of bankruptcy proceedings,

3) if the creditor does not request the competent court to issue temporary measures within 15 days from the date the goods had been unloaded,

4) if the unloade,quest ate spro

prijevod: Jasenka Težak Štefanić

Article 613

(1) The carrier shall be liable for damages arising from death or personal injury sustained by a passenger or from the shortage, loss or damages to luggage if the event causing the said damages occurred during the voyage, moreover for damages caused by any delay in delivering the luggage to the passenger if the said damages or delay were caused by fault of the carrier or persons in his service.

(2) The person requesting the compensation of damages according to Paragraph 1 of this Article shall have to prove that the event causing the damages had occurred during the voyage, as well as the amount of the damages.

Article 614

The carrier shall be liable for damages mentioned in Article 613 of this Code caused by a person in his service who had been performing his duties within the scope of his employment.

Article 615

(1) Unless the contrary has been proved, the carrier shall be presumed to be at fault if death or personal injury suffered by a passenger, or the shortage, loss or damages to hand luggage, or any delay in its delivery to the passenger has been directly or indirectly caused by shipwreck, collision, running aground, explosion, fire or by defects of the ship.

(2) Unless the contrary has been proved the carrier shall be presumed to be at fault regarding the shortage, loss or damages to other luggage, or any delay in the delivery of such luggage to the passenger regardless of the nature of the event causing the said damages.

Article 616

(1) The carrier shall be liable to the passenger according to Article 615, Paragraph 2 of this Code for damages arising from the shortage, damages or loss to valuables or from any delay in the delivery of the same to the passenger (money, securities, gold, silver, jewellery, precious stones, pieces of art) only if the carrier had received the said valuables for storage.

(2) The carrier shall issue a written receipt for objects received for storage from Paragraph 1 of this Article.

Article 617

(1) At the passenger's request the carrier shall issue a luggage receipt he has received for storage.

(2) The luggage receipt shall indicate the type of luggage and number of pieces of luggage.

(3) Unless the contrary has been proved, the facts from the luggage receipt shall be presumed to be correct.

Article 618

If upon termination of the voyage the luggage has not been claimed or removed from the ship, the carrier shall keep it in his possession or give it into adequate storage at the risk and expense of the passenger.

Article 619

If the carrier has proved that the death or personal injury of a passenger, the shortage, loss or damages to his luggage, or the delay in delivering this luggage to the passenger has been entirely or partly caused by fault of the said passenger or by an action of his which cannot be considered as regular, the court shall mitigate the carrier’s liability or relieve him therefrom.

Article 620

(1) The carrier's liability for death or personal injury of a passenger shall be limited in all cases to 175,000 accounting units of Special Drawing Rights per passenger and per voyage.

(2) If the compensation for damages has been granted as an annuity, the capitalised amount of this annuity shall not exceed the amount specified in Paragraph 1 of this Article.

(3) The amount specified in Paragraph 1 of this Article shall apply to the settlement of claims of all creditors resulting from events that occurred in the course of a single voyage.

Article 621

(1) The liability of the carrier for damages caused to luggage due to its shortage, loss or damages, or to any delay in its delivery to the passenger shall be limited in all cases to:

1) for hand luggage - 1,800 accounting units of Special Drawing Rights per passenger and per voyage,

2) for vehicles, including luggage carried in or on a vehicle – 10,000 accounting units of Special Drawing Rights per vehicle and per voyage,

3) for all other luggage except the luggage mentioned in Paragraph 1, Points 1) and 2) of this Article – 2,700 accounting units of Special Drawing Rights per passenger and per voyage. (2) Provisions of Paragraph 1, Point 3 of this Article shall not apply to the carrier's liability and the reimbursement of damages pertaining to valuables (Article 616).

Article 622

(1) The carrier and the passenger may agree that the carrier shall be liable according to provisions of Article 621 of this Code only after deducting a franchise of no more than 300 accounting units of Special Drawing Rights in the case of damages to a vehicle and no more than 135 accounting units of Special Drawing Rights per passenger in the case of damages to other luggage due to its damaging, loss or shortage or for any delay in its delivery to the passenger.

(2) The franchise amount shall be deducted from the amount of compensation due to the passenger.

(3) Provisions of this Article shall not apply to valuables.

Article 623

The carrier shall lose the right to the limitation of liability as stipulated by Articles 620, 621 and 622 of this Code when it has been proved that damages occurred as a result of activities or omissions which the carrier had performed, either intentionally or by gross negligence, and with the knowledge that there is probability these damages could occur.

Article 624

The amount to which the carrier's liability shall be limited, as prescribed by Articles 620, 621 and 622 of this Code may be increased by an explicit agreement in writing between the carrier and the passenger.

Article 625

The interest and costs of the proceedings awarded to the passenger by the court in lawsuit for the compensation of damages due to personal injury or death of a passenger, a shortage, loss or damages to his luggage or a delay in its delivery to the passenger shall be paid in full, in addition to the amount which the carrier shall pay the passenger according to the provisions of the Articles 620, 621, 622 and 624 of this Code.

Article 626

(1) If a lawsuit has been initiated against persons in the carrier's service for damages prescribed by provisions of this Code in respect to the transport of passengers and their luggage, such persons shall be entitled to the benefit of exemption or limitation of liability to which the carrier is entitled according to provisions of this Code, provided that the said persons have acted within the scope of their duties on board.

prijevod: Jasenka Težak Štefanić

(2) Persons in service of the carrier or the actual carrier mentioned in Paragraph 1 of this Article shall not have the right to the limitation of liability provided by Articles 620, 621 and 622 of this Code if it has been proved that the da

1) towage begins:

- when the tug has been positioned so that it may perform the towage, or when the tug receives or delivers the towing line or when it starts pushing the tow or performing any other manoeuvre necessary for towage, whichever comes first, all based on orders of the towed ship captain,

2) towage ends:

- when the last command of the tow's captain to release the tow line has been performed or when the pushing or any other manoeuvre necessary for towage has terminated, whichever occurred last.

Article 637

(1) When a tug tows an unmanned waterborne craft, the tug operator shall undertake the usual measures so as to maintain the seaworthiness of the towed craft in the same condition as when received for towing.

(2) The tug operator shall be responsible for the cargo on the towed craft only if the he has expressly agreed to such an obligation.

(3) The tug operator may contract the transport of cargo by towage either with his own or with another ship. In case of doubt, it shall be presumed that a contract of towage has been concluded.

(4) A tug operator who, in accordance with provisions of Paragraph 2 and 3 of this Article, is responsible for the cargo shall be liable for damages to the cargo according to provisions of this Code pertaining to the ship operator’s liability for the transport of goods.

Article 638

The compensation of damages caused by collision of the towed or pushed ships or by their collision with third ships shall be governed by provisions of this Code regulating the compensation due to the collision of ships.

Article 639

(1) If the tow is in danger due to circumstances for which the tug operator is not liable under the contract on towage, and if the tug participates in salvage services, the tug operator shall be entitled to a salvage reward if the salvage is performed successfully.

(2) The tug operator shall not be entitled to a salvage reward if the contract stipulates that the salvage reward has been encompassed by towage fees.

(3) If the towage fees have been contracted exclusively for a successfully completed towage, the tug operator shall be entitled to towage fees even in the event of unsuccessful towage, if he is able to prove that the tow operator is responsible for the unsuccessful towage.

(4) If the towage fees have not been contracted exclusively for a successfully completed towage, the tug operator shall not be entitled to towage fees if the tow operator is able to prove that the tug operator is responsible for the unsuccessful towage.

Article 640

Provisions of this Code on general average shall equally apply to relations between the tug and the tow.

Article 641

Ships of foreign nationality shall not perform towage beginning and ending in Croatian ports or in the internal waters and the territorial sea of the Republic of Croatia (coastal towing) without authorisation to do so issued by the Minister.

Article 642

prijevod: Jasenka Težak Štefanić

Provisions of Article 634, Paragraph 2 and Articles 637 – 641 of this Code shall equally apply to pushing.

d) Other Maritime Navigational Operations

Article 643

(1) Provisions of Articles 644 - 647 of this Code shall apply to contracts concluded by a contracting party and the ship operator, by which the ship operator is bound to fulfil a task not connected to the transport of passengers, luggage, goods or towage, while the contracting party is bound to pay remuneration for this service.

(2) A contract from Paragraph 1 of this Article may also be a time charter.

Article 644

Unless otherwise agreed, the ship operator shall be liable for the seaworthiness of a ship in accordance with provisions of Article 460 of this Code.

Article 645

(1) Unless otherwise stipulated by the parties, the ship operator shall be liable for the acts and omissions of the contractors in his service as if these were his own acts and omissions.

(2) Provisions of Paragraph 1 of this Article shall not affect provisions of Article 644 of this Code.

(3) The persons in the ship operator's service shall be liable for the death and personal injury sustained by persons in the service of the contracting party who are on board for contract implementation, in accordance with provisions of this Code governing liability for the death or personal injury of crew members.

Article 646

Provisions of Article 451 of this Code shall equally apply to contracts from Article 643 of this Code.

Article 647

Provisions of this Code regarding freight for the transport of goods shall apply accordingly also to contracts from Article 643 of this Code.

e) Transport Involving Several Carriers

Article 648

(1) The contract on the transport of goods, passengers and luggage by sea may stipulate that the carrier performs the transport partly with his own ship, and partly by ships of other carriers (direct transport).

(2) A carrier who has received cargo under a contract on direct transport of goods shall issue a bill of lading or another shipping document for the entire contracted voyage (direct bill of lading or another shipping document).

(3) A carrier who has contracted direct transport of passengers shall issue the passenger a ticket for the entire contracted voyage (direct ticket).

(4) A carrier who has received luggage for transport from a passenger under a contract on direct transport of passengers shall issue a luggage receipt for the whole contracted voyage (direct luggage receipt).

(5) Each subsequent carrier enters into a contract on direct transport of goods or luggage if he receives the cargo or luggage and a direct shipping document.

(6) Each subsequent carrier enters into a contract on direct transport of passengers if he accepts a passenger with a direct ticket for transport.

prijevod: Jasenka Težak Štefanić

Article 649

(1) The carrier who has concluded a contract on direct transport, the carrier who has issued a direct shipping document, the carrier who has delivered the cargo to the consignee and the carrier who has conducted the transport when the event occurred which gave rise to a claim for damages due to shortage, loss or damages of the cargo shall be jointly and severally liable to the person entitled to the said claim.

(2) The carrier who has concluded the contract on transport and the carrier who has delivered the goods to the consignee shall be liable to the transport beneficiary for damages caused by a delay in the transport of goods.

(3) Provisions of Paragraphs 1 and 2 of this Article shall also apply to direct transport of luggage.

Article 650

(1) The carrier who has settled a claim in accordance with provisions of Article 649 of this Code shall have the right to reimbursement from the carrier who had performed the transport at the time the event giving rise to the claim had occurred.

(2) If the carrier who had performed the transport when the event mentioned in Paragraph 1 of this Article occurred cannot be identified, the amount of the settled claim shall be borne by the carriers having taken part in the direct transport, in proportion to their respective shares of the stipulated freight, with the exception of those carriers who have proved that the event did not occur during the part of the voyage which they had performed.

(3) If the carrier who has settled the claim is not at fault for being unable to assert his right to reimbursement from the carrier who had transported the goods when the event occurred, the amount of the settled claim shall be borne by all carriers taking part in the direct transport in proportion to their respective shares in the stipulated freight.

Article 651

(1) If, upon receipt of the cargo, the carrier taking part in direct transport did not list his remarks in the direct shipping document as stipulated by provisions of Article 509 of this Code, he shall have the obligation to prove to the other carriers participating in the said transport that he had delivered the cargo to the subsequent carrier or to the consignee in the same condition as when he had received it from the previous carrier or shipper.

(2) If the carrier participating in the direct transport has listed the remarks in the direct shipping document as stipulated by provisions of Article 509 of this Code, the other carriers shall have the obligation to prove that they have received the cargo from the shipper or from the previous carrier in the same condition as that described in the direct shipping document.

Article 652

(1) The carrier who has contracted the direct transport of passengers shall be liable for the entire voyage contracted.

(2) Each subsequent carrier (t)Tj 3.24191 0 Td (i)Tj 3.24191 0 Td (c)Tj 5.04297 0 Td (i)Tj 3.12184 0 T

any damages exceeding the amount specified in Paragraph 1 of this Article.

Article 671

The lessee shall be entitled to any salvage reward earned with the ship while it was under a charter by demise.

Article 672

The lessee may subcharter the ship only based on a written consent of the lessor.

4 Statute of Limitations

Article 673

(1) The statute of limitations for claims arising from a contract on the employment of ships, with the exception of claims from a contract on the transport of passengers and luggage, shall enter into force after a one-year period.

(2) The statute of limitations for claims from a contract on the transport of passengers and luggage shall enter into force after a two-year period.

(3) After rise has been given to a claim the parties may agree in writing to extend the limitation period specified in Paragraph 1 of this Article.

(4) Unless concluded in writing, the agreement from Paragraph 3 of this Article shall have no legal effect.

(5) The statute of limitations shall begin:

1) under contracts on the transport of goods:

- in case of compensation for damages due to shortage, loss or damages to the cargo - from the date the cargo has been delivered or should have been delivered at destination,

- in case of compensation for damages due to delay - from the date the cargo has been delivered,

- in case of non-fulfilment of other contractual obligations - from the date the obligation should have been fulfilled;

2) under contracts on the transport of passengers:

- in case of personal injury - from the date the passenger had disembarked,

- in case of death of a passenger during the voyage - from the date the ship arrived or should have arrived at the port where the passenger intended to disembark,

- in case of personal injury of a passenger during the voyage which had caused the death of the said passenger after disembarkation - from the date the passenger died, however, if a lawsuit for the compensation of damages resulting from the death or personal injury of a passenger has not been initiated within three years from his disembarkation, the right to claim these damages shall expire;

3) under contracts on the transport of luggage:

- for luggage delivered for transport - from the date the luggage was delivered or should have been delivered at the port where the passenger disembarked or should have disembarked,

- for hand luggage - from the date the passenger disembarked or in the case of the passenger's death during the voyage,

- from the date the ship arrived or should have arrived at the port where the passenger intended to disembark;

4) under contracts of towage - from the date the towage has been completed, with the exception of claims for towage fees for which the limitation period begins from the date the towage fees were due;

prijevod: Jasenka Težak Štefanić

5) under contracts of charter by demise - from the date the charter by demise has terminated, with the exception of claims for rental fees for which the limitation period begins from the date rental fees were due;

6) for reimbursement claims - from the date the action providing the right to reimbursement has taken place.

Title III

MARITIME AGENCY CONTRACT

Article 674

By a maritime agency contract the maritime agent undertakes to perform maritime agency services and services of assistance, mediation and representation, for and on behalf of the principal, on the basis of a general or special power of attorney, whereas the principal undertakes to reimburse the maritime agent for the expenses and to pay for his services.

Article 675

Maritime agency services consist in particular of services pertaining to navigation, ships and their employment, and specially to: the assistance and clearance of ships, mediation in concluding contracts of employment of ships, their sales and purchase, the construction, modification or repair of ships, insurance of ships, cargoes and interests, their supply and the care for passengers.

Article 676

(1) Under a maritime agency contract based on a general power of attorney the maritime agent undertakes, in the name and on behalf of the principal, to perform all services or all specific services from his field of activity.

(2) A maritime agency contract based on a general power of attorney must be concluded in writing.

(3) An agreement not concluded in writing shall have no legal effect.

(4) In case of doubt as to the extent of the general power of attorney it shall be deemed that it encompasses clearance procedures.

(5) If a maritime agent works exclusively as a mediator or a representative during the conclusion of contracts for the employment of ships, in case of doubt as to the extent of the general power of attorney, it shall be deemed that it refers to the mediation when concluding such contracts, with the exception of charters by demise and time charters for a whole ship.

Article 677

If the principal limits the authorities of a maritime agent regarding the usual services of a maritime agent, such limitation shall have no legal effect in respect to persons who neither knew nor ought to have known of the said limitation under the circumstances.

Article 678

The maritime agent has the obligation and authority within the limits of the given authorisation to perform services which are necessary or customary in order to fulfil any orders received by exercising due diligence.

Article 679

The maritime agent may sign a contract on the employment of a ship in the name and on behalf of both contracting parties on the basis of their explicit authorisation to do so.

Article 680

If a maritime agent does explicitly state that he is acting in the capacity of a maritime

agent, it shall be deemed, in respect of a person acting in good faith, that the maritime agent is acting in his own name.

Article 681

(1) The maritime agent shall be entitled to an advance payment for his expenses and those incurred for the principal, as well as to a remuneration for his services.

(2) If the expenses and the remuneration have not been paid to the agent, the agent has the right of retention of the principal's property.

Article 682

The maritime agent is entitled to the reimbursement of expenses and to a remuneration for the mediation and conclusion of contracts based on the fact that he had mediated during its conclusion.

Article 683

The conditions for conducting the activities of a maritime agent, as well as the rights and obligations of a maritime agent, with the exception of those prescribed by this Code, shall be prescribed by the Minister.

Title IV

MARITIME INSURANCE CONTRACT

1 Common Provisions

Article 684

(1) Provisions of this Title of the Code shall apply to:

1) the hull insurance, its machinery, installations and equipment, its supplies and other objects transported by ship or located on board,

2) insurance of freight, fare, insurance charges, supplies expenses, general average expenditure, salvage reward, expected profits, commission, crew wages, lien and other rights and other economic gains that exist or may be reasonably expected in regards to navigation or transport of goods by ship, which can be evaluated financially,

3) liability insurance for damages caused to third parties in regards to the employment of a ship and other objects listed in Point 1) of this Paragraph, and to liability insurance for damages on the ship received for repairs.

(2) Provisions of this Title of the Code shall equally apply to the insurance of ships under construction, and to objects intended for its construction, to container insurance, to insurance of research platforms and the exploitation of the seabed, to insurance of goods transported before or after transport by ship by other means of transportation or those that are located, before, during or after such transport in warehouses, depots or in other locations, and to other similar insurances if concluded in accordance with policies or terms customary for maritime insurance.

(3) Provisions of this Title of the Code shall equally apply to reinsurance, if the subject of the reinsurance is an insurance contract stipulated in this Article.

(4) Provisions of this Title of the Code shall equally apply to mutual insurances of maritime risks when they are not contrary to the nature of relationships of such insurances.

(5) Provisions of this Title of the Code shall equally apply to the insurance of yachts and boats.

(6) According to this Title of the Code third persons shall be considered to be persons not being parties of an insurance contract.

prijevod: Jasenka Težak Štefanić

Article 685

(1) The policy holder can only be a person that has or may expect to have a justifiable material interest to avoid the risk occurrence.

(2) The policy holder may claim a compensation of damages that have occurred, covered by the insurance only if he had an interest in the insured object at the time or after the insured event occurred.

Article 686

(1) The insurer may conclude an insurance contract for his own account, for the account of a particular third party or for an undefined party ("to whom it may concern").

(2) If it is not clear from an insurance contract that the insurance has been concluded for the account of an undefined party, the insurance shall be deemed to be concluded for the account of the party contracting insurance or a determined third party.

(3) When contracting insurance the party contracting insurance shall not need to disclose whether he is concluding the insurance for his own account or for the account of a determined third party.

(4) A person who has concluded the contract of insurance explicitly in the name and for the account of a principal shall not be considered as an party contracting insurance.

Article 687

(1) An insurance concluded for the account of a third party without his order to do so, shall be valid if the third party (policy holder) subsequently agrees to the insurance concluded.

(2) In accordance with Paragraph 1 of this Article, the contracted insurance may be approved even after the occurrence of damages covered by this insurance.

(3) The submission of an indemnity claim shall be considered as consent of a third party to the insurance concluded.

Article 688

(1) Insurance for the account of an undefined party shall be deemed to be concluded for the account of the person having interest in the object insured at the time when the insured event occurs or who shall be entitled to claim compensation of damages according to Article 685, Paragraph 2, of this Code.

(2) Insurance concluded for the account of an undefined party shall be valid if a party having an interest in the object insured at the time when the insured event occurs or who is entitled to claim an indemnity for the loss under Article 685, Paragraph 2 of this Code, holds or comes into possession of the policy and if this person agrees to the terms of the insurance already concluded.

Article 689

(1) If the party contracting insurance or his authorised representative, when concluding insurance, fail to disclose all the circumstances which they know or ought to know and which are significant for evaluating the extent of the risk, or if they disclose them incorrectly, the insurer shall be entitled to require from the party contracting insurance to pay the difference in the premium value corresponding to the actual risk and the one formerly paid at a later date.

(2) Pertaining to insurance for the account of a certain third party it shall be assumed that the party contracting insurance is aware of the circumstances known to the policy holder, which he could have communicated in due time to the party contracting insurance.

(3) Provisions of Paragraph 1 of this Article shall not apply to circumstances which are common knowledge, or which were known or were reasonably presumed to be known to the

insurer.

(4) The insurer shall lose his right set out in Paragraph 1 of this Article if he fails to require an additional premium to be paid by the party contracting insurance within three months from the termination of insurance or, if the event insured against happens, no later than when the insurance payment has been completed.

Article 690

(1) If the party contracting insurance or his authorised representative intentionally or by gross negligence fail to disclose to the insurer when contracting insurance, all circumstances which they know or ought to know and which would have a substantial influence regarding the conclusion and terms of the insurance, or if they disclose them incorrectly, the insurer shall be entitled to request the annulment of the insurance so concluded unless he has requested payment of the difference in premium value according to Article 689 of this Code from the party contracting insurance.

(2) If, under the insurance so concluded, the insurer has paid a claim for indemnity to a policy holder of bad faith, he is entitled to demand from the policy holder reimbursement of the compensation of damages paid to him.

(3) Provisions of Article 689, Paragraphs 2 and 3 of this Code shall also apply accordingly to cases from Paragraph 1 of this Article.

(4) The insurer shall be entitled to collect and to retain the premium notwithstanding that the insurance contract has been annulled in accordance with provisions of this Article.

Article 691

(1) The insurer shall be bound to issue a properly signed insurance policy to the party contracting insurance upon the latter's request.

(2) When an insurance policy is issued in two or more original copies upon request of the party contracting insurance, each of the copies shall indicate the number of original policies issued.

(3) The policy shall contain all provisions of the concluded insurance contract establishing the obligation of the insurer for the compensation of damages from insurance.

(4) When the policy has been issued and delivered to the party contracting insurance, the insurer shall not be bound to fulfil his obligations from the insurance contracted before the policy is presented to him or when the policy holder provides probability that the policy has been lost or destroyed before he receives adequate insurance from the policy holder.

(5) The insurer shall be relieved from his obligation pertaining to insurance if he pays the policy holder in good faith, and if the policy has been issued in several original copies to the bearer of one original copy who shows reasonable probability of his entitlement to the insurance indemnity thereunder.

Article 692

(1) The policy holder may transfer his rights from insurance prior to the occurrence of damages, however only to a person who can be a policy holder in accordance with Article 685, Paragraph 1 of this Code.

(2) When a policy has been issued, the transfer of rights from insurance shall be conducted through policy endorsement or in another appropriate manner.

(3) The insurer is entitled to raise the same objections based on the insurance contracted to the new policy holder as he had been entitled to with the previous policy holder.

(4) By way of derogation from provisions of Paragraph 3 of this Article, the insurer shall not raise an objection to a new policy holder in good faith contesting the contents of the

policy he has issued, with the exception of cases of an obvious error which the new policy holder should have noticed.

(5) The assignment of rights pertaining to the object insured does not automatically transfer the rights from the insurance to another person, unless there is express or tacit agreement to this between the policy holder and the party acquiring the rights.

(6) The policy holder shall not be liable to transfer his rights from insurance according to Paragraph 1 of this Article if the possibility of such transfer has been expressly excluded in the insurance contract.

Article 693

(1) The object insured must be specified in the insurance contract and in the policy if issued in a manner which enables its identification.

(2) When the object insured is insufficiently or incorrectly specified so that it cannot be established even indirectly whether it was exposed to the risk insured against and damaged, the insurer shall not be bound to compensate these damages.

Article 694

(1) The value of the object insured stipulated in the insurance contract or in the insurance policy (contracted value) is binding for both the insurer and the policy holder.

(2) The insurer shall be entitled to contest the contracted value only in case of fraud or an obvious error.

Article 695

(1) Unless otherwise established, the insured value of the object insured shall be considered as its actual value when insurance begins.

(2) The commercial value of the object insured shall be considered as its actual value when insurance begins.

(3) The actual value of the object insured need not to be indicated in the contract or policy.

Article 696

(1) Unless otherwise stipulated by this Code or the contract, the insurer shall be bound to pay the compensation for damages covered by insurance only to the amount stated in the insurance contract (hereinafter: amount insured) which the insurance has been concluded for.

(2) Unless otherwise explicitly stipulated, the amount insured shall not automatically represent the contracted value of the object insured.

Article 697

Should the amount insured exceed the contracted or actual value of the object insured, only the contracted or actual value, respectively, shall be taken into account in the settlement of the claim.

Article 698

Should the amount insured be less than the contracted or actual value of the object insured, the insurer shall be liable to pay the compensation of damages only in such proportion between the amount insured and the contracted or actual value, respectively.

Article 699

(1) When the object has been insured against the same risks, for the same period of time and for the benefit of the same policy holder with two or more insurers, and the total amounts insured exceed the contracted or actual value of that object, the policy holder may elect whether to claim the compensation of damages in full or in part and from which insurers,

provided that the total of compensations received does not exceed the amount of the damages coverable by insurance.

(2) An insurer who has paid the compensation of damages upon request of a policy holder in cases from Paragraph 1 of this Article shall be entitled to reimbursement from other insurers in proportion to their liabilities from the insurance contract.

(3) By way of derogation from provisions of Paragraph 2 of this Article insurers who, according to provisions of the insurance contract or the law applicable thereto, are not bound in cases of double insurance to compensate a proportional part of the damages paid by other insurers, shall not be entitled to reimbursement from these insurers for damages which they have compensated directly to the policy holder.

(4) Unless otherwise provided, insurers are entitled to the full premium for the insurance concluded, regardless of whether the circumstances mentioned in Paragraph 1 of this Article occurred accidentally or intentionally.

(5) When submitting a compensation claim to one insurer, the policy holder shall inform him of all other contracts insuring the same object for his benefit against the same risks and for the same period of time.

Article 700

(1) Unless otherwise provided the party contracting insurance shall pay the premium to the insurer immediately upon the conclusion of the insurance contract.

(2) The insurer shall not be bound to deliver the issued policy to the party contracting insurance until the latter has paid the premium owed.

(3) In the claim settlement the insurer shall be entitled to deduct the outstanding premium amount from the compensation.

(4) Unless otherwise provided, non-payment of the premium in due time shall not relieve the insurer from his liability from the insurance contract nor shall it entitle him to cancel the insurance contract.

(5) When the insurance contract has been concluded with a condition that the insurance premium be determined at a later time, the premium amount shall be established in an adequate amount, in proportion to the gravity of the risk.

(6) The party contracting insurance shall pay the premium to the insurer for the insurance concluded even when the object insured has ceased to be exposed to the risks insured against before the conclusion of the insurance contract, provided that the insurer had no knowledge of this at the time the insurance contract has been concluded.

Article 701

(1) The insurer shall be bound to return the premium already paid to the party contracting insurance if the object insured has not been exposed to risks insured against or if the insurance contract has been annulled without fault of either the party contracting insurance or the policy holder.

(2) When the insurance policy has been issued the insurer shall return the premium to the authorised holder of the policy.

(3) When returning the premium, the insurer is entitled to withhold the part of the premium in the customary or contracted amount to cover his expenses in connection to the insurance concluded.

Article 702

(1) In insurance for a specific voyage, if by reason of the policy holder's actions or upon his consent there has been a substantial modification of the voyage insured (change of voyage,

deviation from the route, unjustifiable delay and alike), the insurer shall not be bound to compensate the damages which may occur after such modification.

(2) Provisions of Paragraph 1 of this Article shall equally apply when the damages occur after the ship regains its initial route.

(3) Provisions of Paragraph 1 of this Article shall not apply to the modification of the voyage insured made in the interest of the insurer or for the purpose of saving property and life at sea or when rendering medical assistance or when the modification did not substantially affect the occurrence or extent of the damages.

Article 703

(1) In time insurance, the insurance begins at zero hours of the first day and terminates at 24 hours of the last day stipulated in the insurance contract.

(2) The time referred to in Paragraph 1 of this Article shall be calculated according to the official local time of the place where the policy has been issued, or when there is no policy, according to official local time at the place where the insurance contract has been concluded.

Article 704

(1) Unless the insurance contract stipulates otherwise, maritime insurance shall cover the risks to which the object insured has been exposed during navigation, like: maritime accidents, natural disasters, explosion, fire and robbery.

(2) The insurance contract may also cover other risks to which the object insured is exposed during the insurance term, such as theft and non-delivery, handling risks, land transport risks, war and political risks, risk of strike etc.

Article 705

(1) The modification of risk after concluding the insurance contract due to causes beyond control of the policy holder shall not affect the validity of the insurance and the liability of the parties.

(2) If by reason of the policy holder's actions or upon his consent the risk has been substantially increased, the insurer shall not be bound to compensate the damages attributable to such modification of risk.

(3) If by reason of the policy holder's actions or upon his consent the risk has been decreased, the insurer shall not be bound to reimburse a proportional part of the premium already paid to the policy holder or to proportionally reduce the premium already contracted.

Article 706

(1) Unless otherwise provided the insurance shall cover damages caused by risks insured against as follows:

1) complete loss of the object insured,

2) partial loss or damages to the object insured,

3) salvage expenses and expenses resulting directly from the onset of the event insured against,

4) general average,

5) salvage rewards,

6) expenses of establishing and the settlement of damages covered by insurance.

(2) Unless the insurance contract stipulates otherwise, the insurance shall not cover the liability of the policy holder for damages caused to third parties.

Article 707

The insurance may also cover damages that have occurred before the conclusion of the

insurance contract, provided that at the time when the contract has been concluded the party contracting insurance and the policy holder did not know and ought not to have known that the insured event had happened, or at the time the contract has been concluded both contractual parties were aware that the insured event had occurred, however they had no knowledge of the extent of damages.

Article 708

(1) The insurance shall not cover damages arising directly or indirectly from intentional actions of the policy holder.

(2) Unless the contract of insurance stipulates otherwise, the insurance shall also exclude damages arising directly or indirectly from:

1) gross negligence of the policy holder,

2) intentional actions or gross negligence of persons for whose conduct the policy holder is responsible by law,

3) the presence of war and political risks as well as strike,

4) the presence of nuclear risks.

(3) Provisions of Paragraph 2 of this Article shall not apply to damages arising from intentional actions or gross negligence of the ship crew, nor to damages arising from acts or omissions of policy holders - the ship captain or another crew member or that of a pilot in navigation and ship handling.

Article 709

(1) A total loss of the object insured shall be considered to have occurred according to this Code when the entire object insured has sunk without the possibility of its being resurfaced, or has been destroyed or missing, or when the object insured has been permanently confiscated, as well as when it has sustained such damages that it cannot be repaired and due to which the object insured ceases to be considered as an object of a certain type.

(2) In case of total loss of the object insured the compensation from insurance shall be paid in the full amount of its actual value or, when the value has been contracted, in the amount of the value contracted, but not exceeding the amount insured.

(3) Upon payment of the compensation in accordance with Paragraph 2 of this Article all rights of the policy holder on the object insured shall transfer to the insurer, unless the latter does not waive them at this time.

(4) If the object insured has been underinsured, the rights to it shall be transferred to the insurer in accordance with Paragraph 3 of this Article only in proportion between the amount insured and the contracted or actual value of the object insured, respectively.

Article 710

(1) The policy holder shall be entitled to claim compensation from insurance as if total loss has occurred, as stipulated by Article 709 of this Code if the total loss of the object insured is inevitable or when expenses needed for the repair of the damaged object insured and the expenses of salvage surpass its contracted or actual value.

(2) The policy holder shall furthermore be entitled to compensation as for a total loss if he is unable, due to a risk insured against, to freely use the entire object insured and dispose of it during an uninterrupted period of twelve months.

(3) When the policy holder decides to claim the compensation from insurance according to Paragraphs 1 and 2 of this Article, he shall submit a request in writing to the insurer for the compensation payment. The policy holder shall lose the right for this claim unless he submits a claim within two months from the date on which he has learned of the circumstances upon

which his right is based or in case set out in Paragraph 2 immediately after the expiry of the period established therein.

(4) The policy holder's claim according to provisions of Paragraph 3 of this Article must be unconditional and must relate to the entire object insured.

(5) When the insurer accepts the policy holder's claim submitted in accordance with Paragraph 3 of this Article or when he does not contest it within fifteen days from the date on which he has received it, the compensation for damages shall be paid in accordance with Article 709, Paragraphs 2, 3, and 4 of this Code.

(6) If the insurer contests a claim submitted in accordance with Paragraph 4 of this Article and a dispute arises between the insurer and the policy holder, the court will determine whether requirements from Paragraph 1 of this Article have been fulfilled, according to circumstances which existed on the date on which the policy holder had submitted the claim in accordance with Paragraph 2 of this Article.

Article 711

(1) It shall be presumed that a ship has disappeared if a period of three months has elapsed since receipt of the last news of the ship. In this case it shall be presumed that the total loss of the ship has occurred on the date the last available news regarding this vessel have been received.

(2) When other expenses have been insured together with the ship in accordance to Article 726, Paragraph 2 of this Code, the expenses insured which have been saved by the policy holder due to the loss of the ship shall be deducted from the compensation for total damages.

Article 712

(1) In the event of damages to or loss of an integral part of the object insured, the compensation of damages from insurance shall amount to the necessary costs of repairing and restoring the object insured to its former condition, but not exceeding the amount insured.

(2) When the object insured has been underinsured the repair cost according to Paragraph 1 of this Article is recoverable in proportion between the amount insured and its contracted or actual value, respectively.

(3) When the object insured cannot be repaired and/or restored to its former condition as well as in case of loss of a part of the object insured (partial loss) the compensation of damages from insurance shall be paid in the percentage of the value depreciation of the object insured applied to the amount insured.

(4) When the object insured has been overinsured the percentage of the value depreciation according to Paragraph 3 of the Article shall apply to its contracted or actual value, respectively.

Article 713

(1) In case of general average arising in connection with the risks insured against, the compensation from insurance shall be paid for losses of and damages to the object insured and for the expenses incurred by the policy holder in connection with the object, which are permitted according to a valid distribution basis, as well as contributions to general average which have been established for the object insured in such distribution basis.

(2) When determining the amount of the compensation from Paragraph 1 of this Article, provisions of Articles 712 and 715 of this Code shall apply accordingly, irrespective of the value of the object insured established by the valid distribution basis.

(3) By payment of the compensation for losses, damages and expenses according to

Paragraph 1 of this Article, the right of the policy holder to receive the contribution from general average is transferred to the insurer, but only up to the amount of the compensation paid together with the corresponding amount of interest and commission permitted according to a valid distribution basis.

Article 714

(1) Compensation shall be paid for salvage rewards for saving the object insured from risks covered by insurance which the policy holder must pay, as well as for the costs of proceedings in assessing the reward.

(2) When the object has been underinsured provisions from Article 698 of this Code shall apply to the compensation from Paragraph 1 of this Article, irrespective of the value serving as the basis for the determining the amount of the salvage reward.

Article 715

(1) Exceptional expenses incurred by the policy holder in order to avoid damages from imminent danger or to reduce damages that have already occurred (salvage expenses of the policy holder) are recoverable from insurance if incurred reasonably or in agreement with the insurer and provided that these damages are covered by insurance.

(2) The expenses from Paragraph 1 of this Article shall be compensated from insurance irrespective of their success, even when they exceed the amount insured together with the compensation of damages, however, the compensation of damages shall not exceed the amount insured.

(3) Expenses incurred by the policy holder arising directly from the occurrence of the event insured against shall be compensated from insurance only up to the amount insured.

(4) When the object has been underinsured, salvage expenses and expenses arising directly from the occurrence of the event insured against shall be compensated in proportion between the amount insured and the contracted or actual value, respectively.

(5) By way of derogation from provisions of Paragraph 4 of this Article, salvage expenses incurred at the demand of the insurer despite reasonable opposition of the policy holder shall be compensated fully regardless of the provision pertaining to underinsurance.

Article 716

Expenses incurred by the policy holder that are necessary for the establishment and settlement of damages covered by insurance shall be compensated from the insurance fully even in case of underinsurance.

Article 717

(1) The insurer shall be bound to compensate successive damages which occur during the term of the same insurance even when the total amount of the compensation for the damages covered by insurance exceeds the amount insured.

(2) When, during the term of the same insurance, a partial loss or damage is followed by a total loss of the object insured, the insurer shall be bound, in addition to the compensation for the total loss, to compensate only for the expenses covered by insurance which were incurred by the policy holder in connection to the partial loss or damage.

Article 718

(1) When specifically stipulated conditions which were essential to the decision on whether to provide coverage at all have not been fulfilled, the insurer is entitled to demand the annulment of the insurance contract.

(2) When specifically stipulated conditions which were significant only for the gravity of

certain risks or the extent of damages have not been fulfilled, the insurer is entitled to deduct the part of damages from the insurance compensation which is attributable to the non-fulfilment of these conditions.

Article 719

(1) During the insurance term the policy holder shall take care of the object insured with due diligence and do nothing that would prejudice any right to obtain the compensation of damages from a third party responsible for these damages.

(2) In the event the risk insured against has occurred, the policy holder shall:

1) take all reasonable measures necessary to avert or minimise the loss, if possible in agreement with the insurer,

2) inform the insurer or his authorised representative of the damages that have occurred as soon as he learns thereof,

3) secure any right to the compensation of damages from a third party responsible for it.

(3) Should the policy holder intentionally or by gross negligence fail to take care of the object insured during the insurance term, or to perform his duties as stipulated by Paragraph 2, Point 1) of this Article, the insurer shall not be bound to compensate the damages resulting therefrom.

(4) Should the policy holder intentionally or by gross negligence prevent any right to the compensation of damages from a third party responsible for the loss during the insurance term, or fail to perform his duties as stipulated by Paragraph 2, Points 2) and 3) of this Article, the insurer is entitled to deduct an amount corresponding to the amount of damages he has suffered from the insurance compensation.

Article 720

(1) When submitting the compensation claim, the policy holder shall, when required by the insurer, provide such information, documents and other evidence available to him as are necessary to establish the nature, cause and extent of the damages and any other circumstances whereby his right to the compensation from insurance can be established or at least presumed.

(2) When the policy holder intentionally or by gross negligence fails to determine the damages in due time and in the manner stipulated, or when this has not been stipulated in the customary manner, the insurer shall compensate the damages only if the policy holder has submitted conclusive evidence of the nature, cause and extent of damages and of the circumstances essential for establishing whether the damages are covered by insurance.

Article 721

The insurer shall compensate the damages within one month after the policy holder has submitted to him the compensation claim in accordance with Article 720 of this Code, with all information and documents establishing his obligation from the insurance contract.

Article 722

When the shares of insurers have been specified in the insurance contract concluded with several insurers, each insurer shall compensate the damages only in proportion to his share.

Article 723

(1) By payment of the compensation from insurance all rights of the policy holder against third parties in respect of the damages for which the indemnity has been paid shall be transferred to the insurer, but only up to the amount paid.

(2) If the object insured has been underinsured, the rights of the policy holder from

prijevod: Jasenka Težak Štefanić

Paragraph 1 of this Article shall be transferred to the insurer only in proportion between the amount insured and the contracted or actual value of the object insured, respectively.

(3) The policy holder shall offer the insurer, upon his request, full assistance in realising any rights against third parties and issue him a document on assigning his rights, duly completed and signed.

Article 724

(1) The statute of limitation for claims from an insurance contract shall be five years.

(2) The term from Paragraph 1 of this Article shall begin:

1) from the date on which the contribution or reward payable by the policy holder has been assessed - for indemnity claims for contribution to general average and for salvage rewards,

2) from the date on which the policy holder has received the claim for a compensation of damages from the third party - for indemnity claims for damages caused to third parties,

3) from the first day after the end of the calendar year during which the claim has arisen – for other claims.

(3) A direct claim of a third party having suffered damages to the insurer shall fall under the statute of limitations at the same time when a claim of a third party having suffered damages to the policy holder responsible for damages falls under the statute of limitations.

(4) The statute of limitations for claims belonging to the insurer from a third person responsible for the occurrence of the event insured against begins simultaneously with the statute of limitations for claims of the policy holder from this person, and shall terminate at the same time.

Article 725

Provisions of Article 685, Article 692, Paragraph 1, Article 699, Paragraph 5 and Article 708, Paragraph 1 of this Code shall not be modified even by explicit provisions of the insurance contract.

2 Marine insurance

Article 726

(1) Marine insurance encompasses the hull, machinery, installations and equipment, regular supply of fuel, lubricants and other ship material, and a supply of food and drink for the crew.

(2) Exceptional supplies of fuel, lubricants and other material, and supplies of food and drink which are not used for regular needs of the crew, as well as expenses pertaining to procuring equipment and insuring the ship shall be encompassed by marine insurance only when explicitly stipulated.

Article 727

(1) Voyage insurance for a specific voyage begins at the time of cargo loading in the port of departure indicated in the insurance contract and continues until the completion of cargo unloading in the destination port indicated in that contract but not longer than 21 days after the arrival of the ship into that port.

(2) If the loading of cargo for a new voyage commences in the destination port, before the unloading of cargo as stipulated by provisions of Paragraph 1 of this Article has finished, the insurance terminates when the loading of the new cargo begins.

(3) When no loading of cargo takes place in the port of departure, the insurance commences when the ship raises the anchor or unberths in that port to depart on the voyage

insured.

(4) When the cargo has not been unloaded in the destination port, the insurance terminates when the ship anchors or moors in that port.

(5) When the voyage has been interrupted before reaching the destination port, the insurance terminates at the place where the voyage was interrupted, however provisions of Paragraphs 1, 2 and 4 of this Article continue to apply accordingly.

(6) The ship remains insured while urgent repairs of damages covered by the insurance are conducted without unjustified delay at an intermediate port immediately after the termination of the voyage insured, provided that the ship cannot be employed for commercial or other purposes at the same time.

Article 728

(1) When the time insurance terminates while the ship is on a voyage, the insurance shall be extended until it arrives at the first destination port, provided that the policy holder has not waived such extension before the expiration of insurance.

(2) Provisions of Article 727 of this Code shall apply accordingly to the completion of voyage at the first destination port.

(3) The insurance shall be extended during urgent repairs of damages covered by insurance which began during the term or immediately after the expiration of insurance which are conducted without unjustified delay, if the ship cannot be employed for commercial purposes during this time.

(4) When insurance has been extended in accordance with Paragraph 1 of this Article the insurer is entitled to an additional premium for the period for which the insurance has been extended.

Article 729

(1) Losses resulting directly or indirectly from a defect or unseaworthiness of a ship shall be excluded from marine insurance if the policy holder knew or could have known of them by exercising due diligence and would have been able to prevent the consequences thereof.

(2) Provisions of Paragraph 1 of this Article shall not apply to damages arising from a defect or unseaworthiness of a ship of which the insurer has been informed or has found out about in another way when concluding the insurance contract.

(3) The meaning of unseaworthiness of a ship, according to this Article, shall be its general unseaworthiness, as well as unseaworthiness for a particular voyage and transport by the ship arising from technical defects, its insufficient equipment, inadequate crew, overloading or irregular loading of cargo, embarkation of passengers in excess of the number permitted or for any other reason.

(4) Damages sustained as a result of a direct or indirect risk outside the limits of navigation, as stipulated by the insurance contract, shall be excluded from the contract on time insurance.

Article 730

(1) When the damaged ship has been repaired, or its lost parts of the hull, machinery, installations, equipment or supplies replaced, the compensation for damages from insurance shall be paid in the amount of actual costs necessary for the ship repair or the replacement of parts, but not for any loss resulting from the depreciation of the ship value, despite the repairs completed and the parts replaced.

(2) When due to repairs of the ship or the replacement of parts its actual value has considerably increased, the rise in value arising therefrom shall be deducted from the

insurance compensation.

(3) If the damaged ship has not been repaired or the lost parts not replaced during the insurance term or immediately thereafter, and the policy holder claims the damages to be compensated before repairs or replacements have been carried out, the compensation shall be paid for damages in the percentage of the ship's value depreciation applied to the amount insured, but not exceeding the estimated cost of repairing the ship or replacing the parts.

3 Insurance of Goods

Article 731

The value insured, or when the value has not been insured –the amount insured may furthermore insure, apart from the value of goods in the place of departure, insurance charges, freight, customs fees and other expenses regarding the transport and delivery of the goods as well as the expected profit, and it shall not be necessary to list these expenses or the profit expected explicitly in the contract when they are covered by the same insurance contract.

Article 732

(1) The insurance of goods on a specific voyage shall begin when the loading commences onto the first means of transportation at the place named in the insurance contract for the purpose of performing the voyage insured, and shall last until the goods have been unloaded from the last means of transportation at the destination indicated in the insurance contract.

(2) If a voyage is interrupted at any place on its route the insurance shall terminate at the moment the goods have been unloaded from the last means of transportation in that place.

(3) Provisions of this Article shall not affect provisions of Article 702 of this Code regarding deviations from the insured voyage.

Article 733

(1) Unless otherwise provided, the insurance shall not cover damages caused by defects or natural characteristics of goods.

(2) Provisions of Paragraph 1 of this Article shall also apply to cases when damages have occurred as a result of a delay of the means of transportation caused by the risk insured against.

Article 734

(1) In case of a total loss of goods, the compensation from insurance shall cover the value of goods at the place of departure, together with the value of any other interests covered by the same contracted value or by the same amount insured, in accordance with Article 731 of this Code.

(2) When the policy holder has saved certain expenses which were insured together with the value of goods at the place of departure as a result of the total loss of goods or for other reasons, such saved expenses shall be deducted from the compensation for a total loss.

Article 735

(1) In an insurance of goods the percentage of value depreciation according to Article 712, Paragraph 3 of this Code is established by a comparison of the value of goods in both the good and the damaged condition at the place where the insured voyage terminates.

(2) When damaged goods have been sold before the arrival at destination, in agreement with the insurer in order to avoid a greater loss, the compensation from insurance shall cover the difference between the net sale amount and the insured amount or, if the goods have been overinsured, the difference between the net sale amount and the contracted or actual value, respectively.

prijevod: Jasenka Težak Štefanić

Article 736

Where due to the occurrence of the event insured against, the goods have been unloaded from the ship before their destination, the compensation from insurance shall cover, in accordance with Article 715, Paragraph 3 of this Code, the expenses of unloading the goods as well as the storage costs and extra expenses of forwarding the goods to the destination, which are to be borne by the policy holder.

Article 737

In addition to cases from Article 710, Paragraph 1 of this Code, the policy holder is entitled to claim the compensation from insurance as for a total loss of the goods insured, in accordance with provisions of Article 709 of this Code, in the following cases:

1) when the ship has become unseaworthy during the voyage due to the occurrence of the risk insured against, and the goods could not have been forwarded to their destination within the next six months, or when the forwarding expenses for these goods, which are borne by the policy holder would exceed the contracted or actual value of the interests insured, respectively,

2) when due to damages the goods have lost four fifths of their value, and cannot be repaired and restored to their former condition,

3) when the necessary costs of salvage, repair and forwarding of the goods damaged to their destination, which must be completed and are borne by the policy holder, exceed the contracted or actual value of the interests insured, respectively.

Article 738

(1) When a number of successive shipments has been insured by one contract only in general terms (general insurance contract), the party contracting insurance shall report all such shipments to the insurer once they have been shipped, together with all information necessary to finally establish obligations of the parties in accordance with the general insurance contract.

(2) When the general insurance contract does not establish the extent of coverage given or the value for which particular shipments have been insured, the party contracting insurance shall report its demand pertaining to the above to the insurer, if possible before the voyage commencement.

(3) If the party contracting insurance fails to perform his duties from Paragraph 2 of this Article for certain shipments before damages occur, or when no damages have occurred before the termination of the insured voyage, it shall be considered that these voyages have been insured against the risks mentioned in Article 704, Paragraph 1 of this Code for their actual value in accordance with Article 695 of this Code, increased for the amount of freight borne by the policy holder and for insurance charges.

(4) Should the party contracting insurance intentionally or by gross negligence fail to perform his duties from Paragraph 1 of this Article the insurer shall be entitled to cancel the general insurance contract and to decline to pay the compensation for damages which have occurred with unreported shipments.

(5) The insurer shall be entitled to the insurance premium for unreported shipments even if they were shortly exposed to the risks covered by the general insurance contract, including when the contract has been cancelled in accordance with Paragraph 4 of this Article.

(6) The insurer shall deliver the policy for each reported shipment upon demand of the party contracting insurance in accordance with Article 691 of this Code.

4 Freight Insurance

Article 739

prijevod: Jasenka Težak Štefanić

Unless otherwise stipulated, freight insurance shall cover the gross amount of freight.

Article 740

In case of total loss of freight resulting from the total loss of goods for which the freight has been or should have been paid, the compensation shall be paid in accordance with Article 709, Paragraph 2 of this Code, but the policy holder's rights on goods shall not be transferred to the insurer of freight.

Article 741

If the freight which has been or should have been paid for certain goods has been insured, the compensation of damages caused by risks insured against shall be established, if it cannot be done otherwise, in the same proportion as the compensation for damages sustained by the goods which the freight pertains to.

Article 742

Unless otherwise stipulated by this Code, provisions pertaining to the insurance of goods shall apply to the insurance of freight for the transport of certain goods, and provisions pertaining to marine insurance to the insurance of other types of freight.

5 Liability Insurance

Article 743

(1) In a liability insurance for damages caused to third parties the insurance shall compensate the amounts the policy holder must pay to third parties in connection with his liabilities covered by insurance and the expenses necessary to establish the amount of his obligation.

(2) In case from Paragraph 1 of this Article, when insurance is compulsory, as well as in case of liability for death or personal injury of a crew member and for affecting a crew member's health, the damaged party may claim the compensation of damages directly from the insurer for damages suffered in an event for which the policy holder is liable, but only up to the amount insured.

(3) The insurance shall also compensate the costs of measures taken on demand of the insurer and his representatives or in agreement with them, for protection from unjustified or excessive claims by third parties, as well as costs of reasonable measures undertaken by the policy holder for the same purpose without consent of the insurer or his representatives when this consent could not have been obtained in time.

(4) When the insurance contract stipulates the amount for which the liability has been insured, the compensation from Paragraph 1 of this Article shall be paid only up to the amount insured.

Article 744

(1) If the liability of the ship operator is covered by the same contract insuring the ship, the compensation of damages from insurance shall be paid independently of the compensation amount for other damages covered by marine insurance, in accordance with Article 735 of this Code.

(2) When the contract does not stipulate a separate amount for the ship operator's liability insurance, it shall be considered that his liability has been insured to the same amount to which the ship has been insured.

Article 745

(1) In case of collision between ships belonging to the same policy holder, provisions of the ship operator's liability insurance shall apply as if the ship belonged to different persons.

prijevod: Jasenka Težak Štefanić

(2) Provisions of Paragraph 1 of this Article shall also apply accordingly when the insured ship has caused damages to other assets or property belonging to the same policy holder.

6 Various Insurance

Article 746

(1) In case of a total loss of the expected profit resulting from the total loss of goods, the damages shall be compensated in accordance with Article 709, Paragraph 2, of this Code, however the rights of the policy holder on goods shall not be transferred to the insurer of the expected profit.

(2) Provisions pertaining to the insurance of goods shall apply accordingly to the insurance of expected profit connected with the transport of goods.

Article 747

Insurance expenses can be insured in the contracted value or, when the value has not been established, in the amount insured, together with the object for which these expenses have been or should be paid, and it shall not be necessary to explicitly list these expenses in the insurance contract.

PART EIGHT
MARITIME ACCIDENTS
Title 1
COLLISIONS OF SHIPS

Article 748

Provisions of this Title of this Code shall apply to every waterborne craft irrespective of its purpose, and a hydroplane at sea.

Article 749

(1) Provisions of this Title of this Code shall apply to liability for damages:
1) caused to the ship, persons or objects on board in a collision of ships,
2) caused by one ship to another due to manoeuvring or failing to perform a manoeuvre or by non-complying with the rules on navigation safety even if no collision has actually taken place,
3) caused by or to an anchored or moored ship,
4) caused by one ship to another while navigating together in the same tug or pushing fleets.
(2) Provisions of Articles 824 - 840 of this Code shall apply to the liability for damages caused by a collision between two ships with radioactive or concurrently radioactive and toxic properties, or explosive or other dangerous properties of nuclear fuel or radioactive properties of a product or a waste.

Article 750

(1) The liability for damages stated Article 749 of this Code shall be borne by the ship or ships proved to have caused damages by their fault.
(2) The liability of a ship shall mean the liability of both the owner of the ship and the ship operator.

Article 751

In accordance with provisions of this Title of this Code , the ship operator shall be liable for damages caused by a pilot's action or his failure to perform an action, irrespective of whether the pilotage has been compulsory.

Article 752

(1) Where loss has been caused by fault of two or more ships, their liability is proportional to the degree to which they are respectively at fault.

prijevod: Jasenka Težak Štefanić

(2) If it is impossible to establish the degree of the ships' respective faults referred to in Paragraph 1 of this Article, the liability shall be apportioned equally.

Article 753

The loss of profit shall also be compensated for damages sustained in collision, regardless of the degree of the fault.

Article 754

(1) If death or injury to a person has been caused by collision, the liability for the loss sustained by death or injury shall be borne by the ships having caused the collision.
(2) In respect of damages set out in Paragraph 1 of this Article, the ship which has paid a larger part of the compensation for damages than it ought to bear proportionally to its fault shall have the right to claim from the other ship the amount paid in excess to its degree of the fault committed.
(3) If for the reasons beyond its control the ship cannot collect the amount due from other ship or ships in accordance with Paragraph 2 of this Article, the ship may claim the reimbursement from other ships which by their fault have caused the damages, proportionally to their respective faults.

Article 755

If the collision is accidental or caused by *force majeure* or if the cause of the collision cannot be determined, damages shall be borne by the injured party.

Article 756

(1) Following a collision, the captain of a collided ship shall be bound, insofar as possible, to make known to the other ship the name of the last port from which it has sailed and the port bound for.
(2) The ship owner or the ship operator shall not be liable for a compensation of damages caused by a non-fulfilment of the obligation set out in Paragraph 1 pertaining to the ship captain.

Article 757

(1) A claim for the compensation of damages caused by a ship collision shall have a limitation of two years from the collision date.
(2) The statute of limitations for a reimbursement claim (Article 754) shall be one year.
(3) The parties may, after the claim has been initiated, extend the statute of limitation from Paragraphs 1 and 2 of this Article by an agreement in writing.
(4) The statute of limitations from Paragraph 2 of this Article shall commence:
1) from the date of legal validity of judicial verdict by which the amount of solidary responsibility has been determined,
2) from the date of payment, if the legal proceedings have not been initiated,
3) from the date the creditor was informed about his debtor's insolvency, bearing in mind that the limitation period cannot exceed two years from the date of payment or the date of legal validity of the judicial verdict - when a request for the distribution of an insolvent debtor's part has been initiated (Article 754, Paragraph 3).

Article 758

Provisions of this Title of this Code shall not affect provisions of this Code referring to limitations of liability of ship operators or rights and liabilities deriving from contracts on the employment of ships or any other contracts.

Article 759

With the exception of Article 756, Paragraph 1 of this Code provisions of this Title of this Code shall also apply to warships.

Title II

SALVAGE

prijevod: Jasenka Težak Štefanić

Article 760

Provisions of this Title shall apply to the salvage of persons, ships and goods on board and any other property in peril at sea, including the raising of sunken objects from the sea.

Article 761

The terms used in this Title of the Code shall have the following meanings:

1) *salvage* is every act or action undertaken for helping persons, ships or any other property in peril at or under the sea,

2) *ship* is any ship, boat, yacht or another craft designed for navigation,

3) *property* is every kind of property which is not permanently or intentionally secured to the coast, including freight if exposed to risk,

4) *damages to a maritime environment* shall be significant physical damages to human health, life at sea or sea resources, caused by pollution, noxious discharge, fire, accident and similar serious accidents,

5) *payment* means every reward, settlement or compensation due based on provisions of this Title of this Code .

Article 762

1) Provisions of this Title shall also apply to warships with the exception of provisions set out in Articles 781-783 of this Code.

2) The Minister in charge of defence shall prescribe the cases in which a captain of a Croatian warship shall not be bound to proceed in compliance with provisions of Articles 764 – 767 of this Code.

3) Salvage of a Croatian warship and persons on board it shall not be undertaken in case this has been explicitly refused by the ship captain.

Article 763

Provisions of this Title of this Code shall not apply to floating or fixed offshore facilities, when these facilities are located in their positions and are engaged in exploration, exploitation or production of submarine mineral resources.

Article 764

(1) The ship captain who has, in whichever way, been informed about persons in peril at sea including enemies in case of war, shall be bound to proceed to their assistance at a maximum speed informing them about his arrival if possible under the circumstances, and to salvage them.

(2) Having consulted the captains of ships who have responded to his request for assistance, the captain of the ship in danger, when circumstances allow for consultation, shall have the authority to select one or more ships found to be the most suitable for the salvage operations.

(3) The captain or captains of the ships selected to provide assistance to the ship in danger have the obligation to accept the choice and immediately proceed to provide assistance to persons in life danger, at the highest possible speed.

(4) The ship captain shall render assistance to persons in life danger even when they refuse or if the captain of the ship in danger on board of which these persons are, objects to it.

Article 765

By way of derogation from provisions set out in Article 764 of this Code, the ship captain is neither bound to proceed to assistance nor to carry out salvage operations when:

1) the salvage operation may seriously threaten the safety of his ship and persons on board of that ship,

2) he estimates, for justified reasons pertaining to the specific circumstances of the event, that an undertaking of salvage operations for persons in danger would not be successful,

3) he has been informed that another ship has been selected for the salvage and that this ship has accepted to complete this operation,

4) informed by the captain of the ship in danger, or directly by the persons who were in danger, or by the captain of another ship that has come to the rescue of persons in danger that such assistance is no longer required.

Article 766

In case of a collision of ships the ship captain shall carry out the salvage operations for the persons on board the other ship and, provided his ship and persons on board are not seriously endangered by such an operation, of the ship he has collided with.

Article 767

The ship captain who has failed to proceed to assist the persons in peril and to carry out salvage operations (Article 765) and who has furthermore failed to carry out salvage operations of the ship after the collision (Article 766), shall be bound to enter the reasons for such actions into the ship logbook.

Article 768

The ship owner or the ship operator shall not be liable for damages caused by the captain's infringement of his obligations set out in Articles 764 and 766 of this Code .

Article 769

(1) No reward shall be due to salvor for saving the persons.
(2) By way of derogation from Paragraph 1 of this Article, when several salvors have participated in the same salvage operation where some of them have saved the persons and others the ships or the objects thereon, the salvor who has saved only the persons shall be entitled to a fair share of the payment awarded to another salvor for saving the property on board, or to compensation for preventing or minimizing damages to the maritime environment.

Article 770

(1) Unless otherwise provided by a salvage contract, provisions of this Code shall apply to the salvage of property.
(2) The captain or the operator of a ship in danger shall have the authority to conclude a salvage contract on behalf of the owner of other property on that ship.
(3) The contracting parties cannot exclude or minimise their liability for the protection of the maritime environment referred to in Article 772 nor exclude provisions of Article 773 of this Code.

Article 771

(1) Each act of salvage of a ship or other property which has been successful shall give the salvor a right to an equitable remuneration.
(2) The amount of reward cannot exceed the value of the ship or goods saved.
(3) Unless the parties have contractually established otherwise, no payment shall be due according to this Title of this Code if the salvage operation has failed.

Article 772

(1) The salvor shall exercise due diligence in carrying out the salvage operations and in preventing or minimizing damages to the environment, in seeking assistance from other salvors when circumstances so require, and shall accept the intervention of other salvors when this has been reasonably requested by the captain or operator of the ship in danger, or the owner of the property salvaged.
(2) During the course of salvage operations, the ship captain, the ship operator or the owner of property in danger are bound to cooperate fully with the salvor, to exercise due diligence to prevent or minimise the damages to the maritime environment, and when the ship or other salvaged property has been brought to safety, to accept to care for them when reasonably requested so by the salvor.

Article 773

prijevod: Jasenka Težak Štefanić

Upon request of a party the court may annul or modify the contract of salvage of a ship or other property:
1) if the contract has been concluded during the danger or under the influence of danger and if it establishes that the contract terms are inequitable,
2) if it establishes that a party has been forced to enter into the contract by fraud or intentional concealment of facts,
3) if it establishes that the reward under the contract is excessively high or excessively low in respect to the services rendered.

Article 774

(1) If the parties have not concluded the contract on salvage of ships or property on board, or if such a contract has been concluded but the salvage reward has not been determined, in case of a dispute, the amount of salvage reward shall be decided by the court.
(2) The salvage reward shall be determined by the court taking into account the following criteria:
1) the salvaged value of the ship and other property,
2) the skill and efforts of the salvors in preventing or minimising damages to the maritime environment,
3) the measure of success obtained by the salvor,
4) the nature and degree of the danger,
5) the skills and efforts of salvors in salvaging the ship, life and other property,
6) the time used and expenses and losses incurred by the salvors,
7) the risk of liability and other risks to which the salvors and their equipment have been exposed,
8) the promptness of the service rendered,
9) the availability and usage of ships and other equipment intended for salvage operations,
10) the level of readiness and efficiency of the salvors' equipment and the value thereof.
(3) Provisions set out in Paragraph 2 of this Article shall apply also when the court, according to Article 773 of this Code, modifies the amount of the reward stipulated.

Article 775

(1) If the salvor has carried out salvage operations of a ship or its cargo which has represented danger to the environment and has failed to earn a salvage reward according to provisions of Article 774, Paragraph 2 of this Code, at least equivalent to the special compensation stipulated by this Article, he shall be entitled to a special compensation from the owner of that ship equivalent to the amount of his expenses.
(2) If, in the circumstances set out in Paragraph 1, the salvor by his salvage operations has prevented or minimised damages to the environment, the special compensation payable by the owner to the salvor may be increased up to a maximum of 30% of the expenses incurred by the salvor. However, the court may, if it deems fair and just and bearing in mind the relevant criteria set out in Article 774, Paragraph 2 of this Code, increase such special compensation further, but in no event shall the total increase be more than 100 % of the expenses incurred by the salvor.
(3) Salvor's expenses for the purposes of Paragraphs 1 and 2 of this Article shall mean the out-of-pocket expenses reasonably incurred by the salvor in the salvage operation and a fair rate for equipment and personnel actually and reasonably involved in the salvage operation, taking into consideration the criteria set out in Article 774, Paragraph 2, Points 8), 9), and 10) of this Code.
(4) The total special compensation under this Article shall be paid only if, and to the extent that such compensation is greater than any reward the salvor is entitled to under Article 774 of this Code.

(5) If the salvor has been negligent and has thereby failed to prevent or minimize damages to the environment, the court may revoke the entire or part of any special compensation due under this Article.
(6) Provisions of this Article shall have no effect or influence to any potential reimbursement claim of the ship owner who has caused damages to the environment.

Article 776

(1) If the salvage has been carried out by several salvors and the apportionment of their rewards for the salvage of the ship and goods thereon has not been established, the court shall decide on the apportionment by applying provisions of Article 774 of this Code.
(2) If more salvors have been involved, each of them may individually realize their request for the reward.

Article 777

(1) No payment is due according to provisions of this Title of the Code unless the services rendered exceed what can reasonably be considered as due performance of a contract entered into before the danger arose.
(2) The salvor who has engaged in salvage of a ship or other property regardless of the explicit and reasonable refusal of the captain, owner or operator of the ship in danger, or the person authorised to dispose with the property on board the salvaged ship, shall not be entitled to a reward.
(3) The court may deprive the salvors of the whole or part of the reward for salvage of a ship or other property, to the extent that the salvage operations have become necessary or more difficult due to a fault or neglect on their part or if they have, during salvage operations, committed a theft, embezzlement or a fraud.
(4) The court, deciding on the salvor's claim may, by a temporary decision, order that the salvor be paid in advance the amount it deems fair and just according to the circumstances of the case.

Article 778

(1) If the salvage of the ship and property thereon is based on a salvage contract concluded by the captain or operator of the ship in danger, the salvage reward shall be paid by the operator of the salvaged ship, unless otherwise stipulated by the contract.
(2) If the salvage contract has been concluded, the owner of other salvaged property on board or a person authorized to dispose with the property thereof shall be solidarily liable with the ship operator, but only for the apportionment of the reward referring to the salvaged property.
(3) If, in the case referred to in Paragraph 1 of this Article, the operator of the salvaged ship pays the total amount of salvage reward, he is entitled to reimbursement from the owner or the person authorized to dispose with other property on board of the ship, for the apportionment of reward referring to that property.
(4) If the salvage contract has not been concluded, the salvage reward shall be paid by the operator of the salvaged ship, whereas the reward for other salvaged property shall be paid by the owner or the person authorized to dispose with it.

Article 779

(1) Upon request of the salvor a person liable for payment of a salvage reward due under provisions of Article 778 of this Code shall have the obligation to provide a adequate guarantee for the salvor's claim, including interest and proceedings expenses.
(2) In addition to the personal obligation from Paragraph 1 of this Article, the owner and the operator of the salvaged ship shall undertake all reasonable measures to ensure that the owners or persons authorized to dispose with other property on the salvaged ship provide adequate guarantees for their liabilities towards the salvor, including potential interest and proceedings expenses.

(3) The salvaged ship and other property shall not, without consent of the salvor, be removed from the port or place at which they first arrive immediately upon the completion of salvage operations until adequate guarantees have been established for the salvor's claim against the relevant ship or property.

Article 780

The salvor may claim the amount of a salvage reward or of a special compensation (Article 775) established by a final ruling, directly from the insurer of the ship and the property thereon, or from the insurer's liability in respect of that ship, provided this insurer has issued guarantees regarding these amounts.

Article 781

(1) The amount of the salvage reward remaining after deducting the amount for damages incurred by salvaging the ship during the salvage operation and expenses caused by the salvage operation, represents the net amount of reward.
(2) A certain apportionment of the net reward belongs to the crew of the salvager ship.
(3) The salvor cannot deprive the crew of their apportionment of the salvage reward without their consent.

Article 782

Each crew member of the salvager ship may, after the expiry of one year from the termination of the salvage operations, take legal action against the ship operator of the salvaged ship or owner of other salvaged property, claiming his apportionment of the salvage reward, provided the salvor itself has not, within that period, initiated the claim for payment of the salvage reward.

Article 783

Provisions of this Title of this Code pertaining to salvage reward shall also apply in case of salvaging ships of the same owner or ship operator.

Article 784

The competent port authority shall have the right to monitor salvage operations, procedures and measures undertaken by salvors with regard to its impact on the safety of navigation, exploitation of natural resources and environment protection.
In addition to the authority indicated in Paragraph 1 of this Article, the monitoring of the salvage procedure or removal, as well as actions and measures undertaken by the salvor at the location of salvage or removal, in cases where the marine environment is in imminent danger of being polluted, shall also be performed by the environmental protection inspectors.

Article 785

(1) If the ship or other property which may be the subject of salvage is located on the sea surface, or has sunk or is on the seafloor, in which position it represents or may represent a danger to navigation, exploitation of the maritime natural resources or may give rise to pollution of the marine environment, the competent port authority shall order its owner to salvage or to remove this object in a reasonable period of time.
(2) If the owner of property referred to in Paragraph 1 of this Article fails to comply with the decision of the port authority, the port authority shall, at the expense and the risk of the owner of that property, organize its salvage or removal through a competent legal or natural person.
(3) If the ship or other property which may be the subject of salvage represents an imminent danger for the environment or danger or obstruction to navigation, the port authority may decide to have the object salvaged or removed at the expense and the risk of the owner, even without a prior decision referred to Paragraph 1 of this Article.
(4) Appeals to the decision from Paragraphs 1 to 3 of this Article shall be filed with the Ministry within 15 days from the receipt of the said decision, however, the appeal does not postpone distrainment of the ruling.

prijevod: Jasenka Težak Štefanić

Article 786

If the expenses due for the salvage or removal of property, in compliance with provisions of Article 785, Paragraphs 2 and 3 of this Code exceed the value of the property salvaged, the difference shall be paid from the national budget.

Article 787

(1) Salvage or removal of the property on the seafloor, being or assumed to be cultural heritage, cannot be undertaken without the authorization of the ministry in charge of cultural affairs.
(2) Salvage of the property having or assumed to have military importance, which has not been authorized by an authorized military official, cannot be undertaken without permission of the ministry in charge of defence.
(3) An appeal against the ruling of the ministry in charge of defence or that in charge of culture granting or denying the salvage of property referred to in Paragraphs 1 and 2 of this Article cannot be filed, however administrative proceedings can be initiated.

Article 788

(1) Any claim to a salvage reward shall be limited to two years from the date of completing the salvage operations.
(2) Once a claim has been initiated, the parties may agree in writing to extend the limitation periods stated in Paragraph 1 of this Article.

TITLE III

General Average

1 Common Provisions

Article 789

(1) Provisions of this Code shall apply to the compensation for damages incurred from general average by the parties participating in a maritime venture.
(2) Provisions of this Code shall also apply to boats, if that has been explicitly agreed upon by the parties.

Article 790

For the purposes of this Title of the Code, the terms used herein shall have the following meanings:
1) *general average act* shall be any extraordinary expenditure made intentionally and reasonably as well as any damages made intentionally and reasonably or caused by the ship captain or a person replacing him, provided these have been reasonably undertaken for the purpose of protecting from danger the property of the parties involved in a common maritime venture,
2) *party in a maritime venture* is the owner or operator of the ship and the person authorised to dispose with the cargo on board,
3) *maritime venture* is a voyage of the ship from the commencement of loading the cargo to the termination of its unloading for each participating party; a maritime venture shall exist also when one or more ships tow or push another ship or ships, provided that they are all involved in commercial activities and not in a salvage operation,
4) *contributory value* is the value of property which forms the basis for determining, pursuant to provisions of this Code, each party's contribution for loss or expenses resulting from a general average act,
5) *claiming value* is the aggregate amount of losses or expenditures sustained in a general average act, reimbursable, pursuant to provisions of this Code, from the contributory value,
6) *port of voyage termination* is the port in which the last portion of cargo on board was unloaded at the time of general average.

prijevod: Jasenka Težak Štefanić

Article 791

Based on provisions of this Code, loss and expenses accepted as general average shall be incurred by all the parties involved in a maritime venture, proportionally to the value of the property allowable as contributory value (Article 795, Paragraph 1).

Article 792

(1) Unless otherwise stipulated by this Code or contractually between the parties, a general average act shall include concessions, damages and expenditures arising immediately or inevitably from general average deemed as such according to the generally adopted international maritime practices.
(2) A special contribution which the ship owner whose ship is a threat to the environment is liable to pay to the salvor, pursuant to provisions set out in Article 775 of this Code, shall not be considered to be general average.

Article 793

Any additional expenditure which, according to its character does not represent a general average expense, but has been made in place of another expenditure which, had it been incurred would have been considered as general average, shall be deemed to be general average and so permitted regardless of the saving, if any, to other interests, but only up to the amount of the saved expense of general average.

2 Contribution to General Average

Article 794

(1) The obligation to contribute in general average shall exist even when damages or the expenditure have been caused by fault of one of the parties to the venture.
(2) Provisions from Paragraph 1 of this Article shall not affect the right of any party in a maritime venture having contributed in general average against the person or persons who have caused damages or expenditure by their fault.

Article 795

Unless otherwise stipulated by this Code:
1) the contributory value shall include the property saved by general average act, the value of the property conceded and the amount for which the value of the property voluntarily damaged has been reduced.
2) claiming value in general average shall include the conceded property value and the amount for which the value of the property voluntarily damaged has been reduced and the expenses permitted as general average including the expenses for the general average settlement.

Article 796

(1) By way of derogation from provisions of Article 795 of this Code the following shall not be admitted as:
1) contributory value - personal objects of the crew and passengers, passengers' luggage without a luggage receipt or bill of lading and mail shipments,
2) claiming value - loss or damages to jettisoned cargo which has not been transported on board in compliance with the recognised practices, or loaded without knowledge of the ship operator, s well as cargo intentionally falsely declared.
(2) The saved cargo loaded without knowledge of the ship operator or intentionally misdescribed shall be added to the contributory value.

Article 797

(1) The value of property being both a contributory and a claiming value, with the exception of expenses, shall be determined on the basis of values at the time and in the port when and where the common venture has ended, unless otherwise stipulated by this Code.
(2) The expenses shall be established in their actual value.

prijevod: Jasenka Težak Štefanić

Article 798

The amount to be permitted as general average for damages or loss of a ship or its parts, caused by a general average act, shall be as follows:

1) when repaired or replaced - the actual reasonable cost of repair or replacement or loss, subject to deduction, in accordance with Article 799 of this Code,

2) when not repaired or replaced – a reasonable depreciation of the value arising from such damages or loss, but not exceeding the estimated cost of repairs.

3) in case of a total loss of the ship or when, according to the estimate, the cost of repairing the damages would exceed the value of the ship when repaired, the amount to be permitted as general average shall be the difference between the estimated value of the ship in an undamaged condition, after deducting the estimated cost for repairing damages not representing general average and the value of the ship in its damaged condition. The latter value may be obtained from the net proceeds of a potential sale of the wreck, which proceeds are further deducted from the claiming value.

Article 799

(1) Expenses for repair of a ship to be permitted in general average shall not be subject to deductions based on the principle "new for old", where old material or parts are replaced by new unless the ship is older than 15 years, in which case there shall be a deduction of one third. The deductions shall be regulated by the ship age from 31 December of the year when construction has been completed to the date of general average act, except for insulation sections, life boats and similar boats, communications and navigational instruments and equipment, machinery and boilers for which deductions shall be established according to the age of the particular parts to which they apply.

(2) Deductions shall be made only from the cost of the new material or parts when finished and ready for installation on the ship.

(3) No deductions shall be made in respect to provisions, supplies, anchors and anchor chains.

(4) Docking and slipway dues and expenses and costs of moving the ship shall be permitted in full.

(5) The costs of cleaning, painting or coating the submerged part of the hull of a ship shall not be permitted in general average unless the submerged part of the hull has been painted or coated within the twelve months preceding the date of general average act in which case one half of such costs shall be permitted.

(6) No deductions based on the "new for old" principle shall be made from the cost of temporary repairs.

Article 800

(1) The value of cargo encompassed by the general average calculation shall be determined on the basis of its value at the time of unloading, based on a commercial invoice rendered to the consignee or if there is no such invoice from the loading value of cargo. The value of cargo at the time of unloading shall include the cost of insurance and freight, except when the persons authorized to dispose of the cargo are liable for the risk of freight loss.

(2) The amount to be compensated as general average for sacrificing the cargo shall correspond to the decrease of its value or the incurred loss of cargo. If the cargo so damaged is sold, the loss to be established in general average shall be determined according to the difference between the net proceeds of sale and the net value of sound cargo on the last day of unloading in the port of destination or on the date the venture has terminated, if it has terminated in another port.

(3) By way of derogation from Paragraph 1 of this Article, if the value of the cargo declared at loading is lower than the value under Paragraph 1 of this Article, damages or loss to such cargo shall be determined according to the value declared.

prijevod: Jasenka Težak Štefanić

Article 801

(1) If the property conceded by general average act has been saved later, its value shall be determined on the basis of its commercial price on the date and at the place and time of its saving, deducted for the necessary and useful salvage expenses.
(2) Provisions of Article 800, Paragraph 2 of this Code shall also apply to the cargo referred to in Paragraph 1 of this Article.

Article 802

(1) A commission of 2% for the expenses of general average, excluding the expenses for salaries and provisions for the crew, as well as for fuel, lubricants and provisions not resupplied during the voyage, shall be encompassed by the claiming value.
(2) Pecuniary loss incurred by owners of the property sold to provide funds for the payment of general average expenditures, shall be permitted for general average, as well as expenses for insurance of such payments.

Article 803

(1) Interest shall be permitted at a rate of 7% per annum on amounts accepted as claiming value, up to three months after the date of issuing the distribution basis for the general average, by taking into consideration all payments on account of the contributory interest or payment from general average deposit funds.
(2) Upon expiry of the period prescribed under Paragraph 1 of this Article, the creditor shall be entitled to interest according to regulations.

Article 804

(1) Contributory values shall be calculated on the following basis:
1) for the ship - net value of the ship at the end of the voyage, without taking into account the favourable or unfavourable effect of the charter by demise or a time charter by which the ship may be bound,
2) for the cargo - the value in accordance with Article 800, Paragraph 1 of this Code deducted for the amount of loss or damages to cargo arising in the course of or before loading,
3) for the freight and fare - the amount of the freight or fare deducted for all expenses, including crew salaries which would not have been incurred due to the proceeds from freight or fare, had the ship and its cargo been totally lost at the occurrence of general average act, and which are not permitted as general average.
(2) The amounts for the conceded property permitted as general average under provisions set out in Articles 798 to 801 of this Code shall be added to the amounts indicated in Paragraph 1 of this Article.
(3) Additional expenses in relation to the values permitted as contributory value, incurred after general average act shall be deducted from the values stated under Paragraph 1 of this Article, except such charges which are permitted as general average.
(4) When the cargo has been sold before reaching the destination, it shall contribute to general average on the basis of the actual net value of this sale. This value shall be added to the amount permitted as general average.

Article 805

(1) The ship operator has the right to retain the cargo encompassed by the contributory value in accordance with Article 795 of this Code until he has received a guarantee that the debtor shall pay his contribution owed regarding the general average.
(2) The ship operator is bound to retain the cargo or provide an adequate guarantee for the claims of other parties in a maritime venture and to protect their interests by exercising due diligence.
(3) If the ship operator fails to comply with provisions from Paragraph 2 of this Article, he shall have to pay a part of the contribution from general average to the creditor for which the

latter has provided evidence that it could not have been recovered from the party authorized to dispose with the cargo.

(4) Provisions of Paragraphs 1, 2, and 3 of this Article shall not affect to rights of ship operators and other parties involved in a maritime venture to remuneration from the party authorized to dispose with the cargo and to whom the cargo has been sold without obtaining any guarantees.

Article 806

The creditor from general average who has not obtained a guarantee that his claim shall be settled, shall have the right to retain the ship and the cargo thereon in order to recover his claim.

3 Statute of Limitations

Article 807

(1) The claim for the payment of general average contribution shall be subject to limitation period of one year from the date the ship has arrived to the port of common venture during which the accident presenting the basis for the request for contribution in general average has occurred.

(2) The limitation period for the request from Paragraph 1 of this Article shall not include the time from the date of appointing a settlement clerk to the time the final distribution basis has been submitted.

Title IV

NONCONTRACTUAL LIABILITY OF THE SHIP OWNER AND THE SHIP OPERATOR

1 Common Provisions

Article 808

(1) Provisions of this Title of the Code shall apply to noncontractual liability for damages caused by a ship to persons and property not on board and to the environment.

(2) By way of derogation from Paragraph 1 of this Article, provisions of this Title of the Code shall not apply to collision of ships and nuclear damages.

Article 809

(1) Provisions of this Title of the Code shall apply to all waterborne craft irrespective of their size and purpose, and to hydroplanes at sea.

(2) Provisions of this Title of the Code shall also apply to warships with the exception of provisions from Articles 813 - 823 of this Code.

2 Liability for the Loss of Life and Personal Injuries

Article 810

(1) The ship owner, the ship operator and the person operating the ship shall be liable for the loss of life and personal injuries to swimmers and other persons at sea caused by their ship:

1) if the loss of life, or a personal injury to any person has occurred within an area considered to be a beach or in an area where navigation is prohibited - unless it has been proved that the injured party has caused damages intentionally or by gross negligence,

2) if the loss of life, or a personal injury to any person has occurred in a sea belt of 150 metres from the shore, with the exception of areas under Points 1, 3, and 4 of this Paragraph - unless it has been proved that loss of life or personal injury has resulted from *force majeure,* act or neglect of the person that lost his life or sustained an injury,

3) if the loss of life, or a personal injury to any person has occurred in a port, at port entries, in regular navigable waterways, in areas used exclusively for sports or similar purposes (e.g. rowing or sailing regattas, water-skiing and alike) including an area exceeding the limit of 150 metres from the shore, except the area from Point 4) of this Paragraph - if it has been proved that the ship is responsible for the loss of life or personal injury.

4) if the loss of life or a personal injury to any person has occurred in the area where certain methods or means of navigation are prohibited (e.g. skimming, water-skiing or speeding) and the loss of life or a personal injury has occurred during the performance of the prohibited method or due to a prohibited means of navigation - unless it has been proved that the person has lost his life or sustained injury by his own act or neglect.

(2) The decision on narrowing down or widening the sea belt from Paragraph 1, Point 2) of this Article shall be provided by the Ministry.

(3) Pursuant to Paragraph 1 of this Article, the owner and the ship operator shall be entitled to limit their liabilities if their ship has been unlawfully taken away.

(4) In case from Paragraph 3 of this Article, both the person operating the ship at the time the event has occurred and the person who has unlawfully taken the ship away, shall be held liable.

3 Liability for Damages to Property and the Environment

Article 811

(1) The ship shall be liable for damages caused to wharfage, breakwaters, port installations and facilities, floating facilities (navigational marks, anchorage buoys, underwater cables, pipelines etc.) and other objects in the port and at sea.

(2) The ship may limit its liability for damages under Paragraph 1 of this Article to the extent to which damages have been caused by a company or a port authority managing the port, or by the condition of wharfage, breakwaters, port installation and facilities.

(3) The liability set out in Paragraph 1 of this Article refers to the liability of the ship owner or the ship operator.

Article 812

With the exception of damages from Article 814 of this Code, provisions of Article 811 of this Code shall also apply to damages caused by the leakage or spill of substances dangerous or harmful to the environment (oils, bilge oils and their mixtures, bilge waters, other bilge substances and other similar compounds).

4 Liability for Pollution Damages from Ships Caused by the Leakage of Oil Shipped as Cargo

Article 813

(1) For the purpose of provisions in this section of this Title of the Code :

1) *ship* means any vessel and or waterborne craft of any kind constructed or adapted for the transport of oil in bulk as cargo, while a ship shall be deemed capable of transporting oil or other cargo solely if it actually transports oil in bulk as cargo and during any subsequent voyage after such transport, unless it has been proved that no residues of such oil transported in bulk have remained thereon,

2) *oil* means any persistent oil such as crude oil, fuel oil, heavy diesel oil, lubricating oil, whether carried on board ship as cargo or in the bunkers as fuel for the ship.

3) *pollution damages* means:

a) losses or damages caused outside the ship by pollution resulting from the leakage or spill of oil from the ship, wherever such leakage or spill may occur, if the compensation for the pollution of environment, not including a loss of profit as a consequence of pollution, has been limited to the expenses for reasonable measures actually undertaken or those to be undertaken to re-establishing the conditions that existed before the occurrence of damages,

b) costs of preventive measures or any losses or damages caused by these measures,

4) *accident* means any occurrence, or series of occurrences having the same origin, which cause pollution damages or present a serious and imminent threat for the occurrence of such damages.

(2) Provisions from this section of this Title of the Code shall apply to pollution damages which have occurred on the territory of the Republic of Croatia and in the area outside the

prijevod: Jasenka Težak Štefanić

territorial sea limits up to 200nm from the straight baselines from which the width of the territorial sea is measured, and to protection measures undertaken in order to prevent or diminish damages, regardless of where these measures have been undertaken.

Article 814

(1) The ship owner shall be liable for any pollution damages caused by oil transported as cargo which has leaked or has been spilled from the ship as a result of the accident, unless he provides evidence that the accident:

a) results from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character, or

b) was entirely caused by a third party's intentional act or failure to act with the intent to cause damages, or

c) was entirely caused by the negligence or other wrongful act of any government or other authority responsible for the maintenance of lighthouses or other navigational aids in exercising that task.

(2) If the ship owner provides evidence that the pollution damages have resulted entirely or partially from a intentional act or a failure to act with intent to cause damages by the person who has suffered the damages, or from gross negligence of that person, the owner may be exonerated entirely or partially from his liability toward such person.

(3) No claim for the compensation from pollution damages shall be made against the ship owner otherwise than in accordance with this Code.

(4) Except as provided in Paragraph 5 of this Article, no claim for pollution damages can be initiated, whether based on this Code or not, against:

a) persons in service of the owner or his authorised representatives or crew members,

b) the pilot or the person other than a crew member rendering service to the ship,

c) the charterer (whatever called, including the demise charterer), the manager or ship operator,

d) the person rendering salvage services upon the owner's consent, or following directions issued by a public authority,

e) the person undertaking protective measures,

f) all persons providing services to the persons mentioned in Points c), d) and e) or their authorised representatives except when it has been proved that the accident has occurred as a result of a personal act or failure of the above mentioned persons, either intentionally or by gross negligence, and with the knowledge that there is probability these damages could occur.

(5) Nothing in this Code shall prejudice any reimbursement right of the ship owner against third parties.

Article 815

When oil has leaked or has been spilled from two or more ships, the owners of all ships concerned shall be jointly liable for damages which cannot be reasonably divided, unless their liability from Article 814 of this Code may be waived.

Article 816

(1) The owner of a ship shall be entitled to limit his liability in respect of damages under Article 814 of this Code to the amounts stated in Paragraph 2 of this Article, by constituting a limited liability fund for pollution damages caused by the leakage or spill of oil.

(2) For damages stipulated by Article 814 of this Code, the ship owner may limit his liability for each accident to an aggregate amount as follows:

- 4,500,000 of accounting units of Special Drawing Rights for the ship not exceeding 5000 tonnage units,

- for the ships over the above tonnage, for each additional unit of tonnage 632 accounting units of Special Drawing Rights in addition to the amount stated in Point a) provided that the total amount in any event does not exceed the amount of 89,800,000 accounting units.

(3) The owner shall not be entitled to the limitation of liability stipulated by Paragraphs 1 and 2 of this Article if it has been proved that the damages have occurred as a result of an action or omission of the ship operator, either intentionally or by gross negligence, and with the knowledge that there is probability these damages could occur.

Article 817

The owner may compensate expenses he has incurred voluntarily for the purpose of reasonably avoiding or minimizing pollution from the fund mentioned in Article 816 of this Code.

Article 818

For the purposes of this Code, the ship's tonnage from Article 818 shall be established in accordance with provisions of Article 391 of this Code.

Article 819

(1) In accordance with Article 816 of this Code the insurer or other person having issued a financial guarantee may constitute a fund mentioned in Article 820.

(2) The constitution of fund referred to in Paragraph 1 of this Article shall have the same legal validity as the constitution of such fund by the ship owner himself.

(3) The fund from Paragraph 1 of this Article may be constituted even when the ship owner, according to provisions of Article 816, Paragraph 3 of this Code is not entitled to the limitation of liability, which shall have no effect on the rights of injured parties against the ship owner.

Article 820

(1) A ship transporting over 2,000 tons of oil as cargo shall be required to have insurance or other security, such as a bank guarantee or a certificate issued by one of the international funds for the compensation of damages, in a amount amounting to the limits of liability, as prescribed by Article 816 of this Code, to cover its liability for pollution damages.

(2) The insurance or other security from Paragraph 1 of this Article must be unconditional and irrevocable.

(3) The ship owner from Paragraph 1 of this Article, registered in a register of ships in the Republic of Croatia shall request port authority in which the register is kept, the issuance of a certificate which shall confirm that the insurance or other security are valid and issued in compliance with provisions of this Code and the applicable international standards.

(4) The certificate from Paragraph 3 of this Article shall be issued in the Croatian and in the English languages and shall contain the following data:

a) name of the ship and port of registration,

b) name/title and the seat of the ship owner,

c) type of insurance,

d) name and seat of the insurer or another person having issued security, and where applicable, the place where the insurance has been established (concluded),

e) the certificate validity period which cannot exceed the validity period of the insurance or another guarantee.

(5) The certificate form Paragraph 3 of this Article must be on the ship at all times, and its copy kept in the register of ships.

(6) The validity of insurance or another security cannot expire before three months have elapsed from the date on which a notice of its expiry has been submitted to the Ministry, if one insurance or security has not been concurrently substituted by another.

prijevod: Jasenka Težak Štefanić

Article 821

(1) A claim for the compensation of pollution damages may be initiated directly against the insurer or another person providing security according to Article 820 of this Code.
(2) An insurer or a guarantor is entitled to raise, against the plaintiff, all the objections which might raise the ship owner, other than bankruptcy or liquidation.
(3) By way of derogation from Paragraph 2 of this Article, the insurer or the guarantor may raise an objection to the effect that the pollution damages have resulted from an intentional act committed by the ship owner.
(4) The insurer or guarantor shall have the right to require the owner to join the proceedings as a mediator.

Article 822

The courts of the Republic of Croatia shall have exclusive jurisdiction regarding the distribution of the limitation of liability funds constituted in its territory.

Article 823

(1) The right to the compensation of damages according to provisions of Articles 814 – 822 of this Code shall be limited to the period of three years from the date damages have occurred.
(2) The right to the compensation of damages according to provisions of Articles 814 – 822 of this Code shall expire unless a lawsuit is filed within the period of six years from the date the accident having caused these damages had occurred.
(3) When the accident consists of a series of occurrences, the period of six years from Paragraph 2 of this Article shall commence from the date of the first such occurrence.

Title V

LIABILITY OF A NUCLEAR SHIP OPERATOR

Article 824

For the purposes of this Title of the Code, the terms used herein shall have the following meanings:
1) *operator of a nuclear ship* is the person authorised by the state to employ a nuclear ship, or the state itself employing a nuclear ship.
2) *nuclear damages* signifies any loss of life or personal injury and loss or damages to property arising out of or as a result of radioactive properties with toxic, explosive or other hazardous characteristics of nuclear fuel or radioactive products and waste.
3) *nuclear accident* is any occurrence or series of occurrences having the same origin which have caused nuclear damages.

Article 825

The ship operator of a nuclear ship shall be exclusively liable for nuclear damages.

Article 826

Whenever both nuclear damages and damages other than nuclear have been caused by a nuclear accident or jointly by a nuclear accident and one or more other occurrences, and when it is not possible to reasonably distinguish between the nuclear damages and such other damages, the overall damages shall be deemed to be nuclear damages, caused exclusively by the nuclear accident.

Article 827

Provisions of this Title of the Code shall not cover the liability of the nuclear ship operator for damages caused to the nuclear ship itself, its equipment, fuel or supplies.

Article 828

A ship operator of a nuclear ship shall not be liable for any nuclear damages caused by a nuclear accident directly resulting from an act of war, hostilities, civil war or an insurrection.

Article 829

If the operator of a nuclear ship proves that nuclear damages have resulted entirely or partially from an act of the injured party committed with the intent to cause damages, the competent court may exonerate the operator of a nuclear ship entirely or partially from his liability to the injured party.

Article 830

In accordance with provisions of this Code the ship operator who has compensated nuclear damages shall have the right to reimbursement:

1) from the person who has caused the nuclear damages intentionally,

2) if the nuclear accident has occurred as a consequence of a wreck-raising operation, from the person who had carried out such operation without the approval of the ship operator or of the state whose flag the ship flies, or of the state in whose waters the wreck is located,

3) if the reimbursement is expressly stipulated by a contract with a person from whom the reimbursement is required.

Article 831

(1) The liability of the ship operator as regards the compensation for nuclear damages caused by a nuclear accident, shall be limited to 100 million of accounting units of Special Drawing Rights for each particular nuclear accident.

(2) Provisions of Paragraph 1 of this Article shall furthermore apply when the nuclear accident has been caused by a personal fault of the operator of the nuclear ship.

(3) When a foreign state whose flag the nuclear ship flies provides for a higher limit of liability, other than the one indicated in Paragraph 1 of the Article, the ship operator shall be liable for that higher limit.

(4) In addition to the amount referred to in Paragraphs 1 or 3 of this Article, the operator of the nuclear ship shall pay the full amount of the expenses and interest for the court proceedings in a lawsuit for the compensation for damages from a nuclear accident.

Article 832

The ship operator shall be required to contract insurance or other security covering his liability for nuclear damages, up to the amount set out in Article 831 of this Code.

Provisions of Paragraph 1 shall not apply to public ships and other ships in the full ownership of the state.

Article 833

(1) When two or more operators of nuclear ships are liable for nuclear damages and the damages attributable to each ship operator are not reasonably separable, the ship operators involved shall be jointly and severally liable for such damages.

(2) In case of solidary liability of the operators of nuclear ships, according to provisions of Paragraph 1 of this Article, each ship operator shall have the right to seek contribution from the other operators, in proportion to the fault attached to each of them. Where the circumstances are such that the degree of fault cannot be apportioned, the total liability shall be borne in equal parts.

Article 834

In the case of a nuclear accident where the nuclear damages have been caused by more than one nuclear ship of the same ship operator, the ship operator shall be liable in respect of each ship up to the limit laid down in Article 817 of this Code.

Article 835

A person who has suffered nuclear damages is entitled to request the compensation directly from the insurer of the nuclear ship operator or from the person who has issued security to cover the ship operator's liability.

Article 836

prijevod: Jasenka Težak Štefanić

(1) The right to compensation according to provisions of this Title of the Code shall expire if a lawsuit has not been initiated within ten years from the date of the nuclear accident.
(2) When nuclear damages have been caused by nuclear fuel, radioactive products or waste which was stolen, lost or jettisoned or abandoned, the period prescribed under Paragraph 1 of this Article shall be calculated from the date of the nuclear accident causing the nuclear damages, but the period shall in no case exceed a period of twenty years from the date of the theft, loss, jettison or abandonment of nuclear fuel, radioactive products or waste.

Article 837

(1) In accordance with provisions of this Title of the Code, the right to compensation shall expire three years from the date on which the person who claims to have suffered the nuclear damages had knowledge or ought to have had knowledge of these damages, as well as of the person responsible for these damages.
(2) The right to the compensation of damages according to provisions of Paragraph 1 of this Article shall not affect the period stipulated in Article 836 of this Code.

Article 838

The amounts provided by insurance or by other security in conformity with Article 831 of this Code shall be exclusively available for the compensation of nuclear damages.

Article 839

The constitution of a limited liability fund by a nuclear ship operator referred to in Article 831 of this Code and its apportionment among the creditors are governed by provisions set out in Articles 401- 429 of this Code.

Article 840

(1) Provisions of this Title of the Code shall apply to a nuclear ship from the date of its launching. Between its launching and the time it is authorised to fly a flag, the nuclear ship shall be deemed to be employed by the owner and to be flying the flag of a state in which it was built.
(2) According to Paragraph 1 of this Article, the owner of the nuclear ship shall be deemed to be the ship operator, but shall not be entitled to limits of liability set out in Article 831 of this Code.

Part Nine
DISTRAINMENT AND SECURITY ON SHIPS AND CARGO
Title I
COMMON PROVISIONS

Article 841

(1) Provisions of this part of the Code lay down the distrainment proceedings and security measures on a ship and its cargo, when the said ship is located within the internal waters and the territorial sea of the Republic of Croatia.
(2) Provisions of this part of this Code pertaining to the distrainment proceedings and security shall also apply to ships outside the internal waters and the territorial sea of the Republic of Croatia, which have been entered in the Croatian register of ships. With reference to the cases covered by this Code, provisions of this part of this Code shall also apply to any ship outside the internal waters and the territorial sea of the Republic of Croatia which has not been entered in a Croatian register of ships.
(3) Distrainment and security on a waterborne craft which pursuant to Article 5 of this Code is not deemed to be a ship, shall be effected in accordance with the rules of the Distrainment Act.
(4) Unless otherwise stipulated by provisions regarding security proceedings set forth in this Code, provisions on the distrainment proceedings set out in this Code shall apply accordingly.
(5) Unless stipulated otherwise by provisions of this Code, provisions of the Distrainment Act and general security rights, with the exception of provisions referring to the security by the

transfer of ownership or another right, shall apply accordingly to the distrainment proceedings and security measures on ships and cargo. In the distrainment proceedings on a ship conducted in order to secure payment of monetary claims, appropriate provisions of the Distrainment Act shall apply for the recovery of monetary claims, in particular to real estate, while distrainment proceedings conducted in order to carry out the delivery of a ship shall be governed by provisions of the Distrainment Act pertaining to distrainment of the delivery of movables.
(6) Distrainment and security on ships and cargo on board shall be determined and conducted by commercial courts in charge of maritime disputes.

Article 842

Provisions of this part of this Code shall also apply to the distrainment proceedings and security regarding shares on a ship and to the distrainment and security regarding a ship under construction.

Article 843

(1) The following shall not be subject to distrainment or security:
1) warships and equivalent ships in public service,
2) foreign ships in innocent passage through the territorial sea of the Republic of Croatia,
3) foreign ships staying in the internal waters of the Republic of Croatia because of *force majeure* or for reasons of distress at sea, for as long as *force majeure* or distress at sea are present.
2) Ships referred to in Paragraph 1, Points 2) and 3) of this Article, may be subject to distrainment or security if the proceedings are conducted for the distrainment or security of claims arising during the passage or stay of the ship in the area of the Republic of Croatia.

Article 844

(1) The court deciding on the proposals for the distrainment on a ship entered into a register of ships or on a ship under construction entered into the register of ships under construction, shall be the court having territorial jurisdiction over the area where the register of ships or ships under construction is kept and where the ship or the ship under construction has been registered.
(2) If, in respect of Paragraph 1 of this Article, distrainment is to be conducted by an appropriate entry into a register of ships or ships under construction, the distrainment shall be conducted by the authority keeping the register of ships or the register of ships under construction.
(3) If, in respect of Paragraph 1 of this Article, the distrainment need not be completed through an appropriate entry into a register of ships or ships under construction, the distrainor may, for the purpose of completing distrainment, submit to any court having jurisdiction over the area where the ship is actually located at the time when the action for distrainment is to be effected, the proposal for this court to conduct the distrainment.

Article 845

(1) The competent court deciding on proposals for distrainment and for the execution of distrainment on a foreign and domestic ship, or on a ship under construction, which has not been entered into a register of ships or ships under construction, shall be the court having jurisdiction over the area in which the ship, or the ship under construction, is located at the time the proposal for distrainment has been submitted.
(2) If, at the time of conducting the distrainment the ship referred to in Paragraph 1 of this Article, is not located within the territory of the court which ordered the distrainment, the distrainor may, in order to complete the distrainment, submit a ruling on distrainment to a court having jurisdiction over the area where the ship is actually located, with the proposal for this court to conduct the distrainment.

Article 846

If at the time of the submitting the proposal for distrainment which is not to be effected by an entry into the register of ships it is unknown whether the ship is located in the territorial sea or

the internal waters of the Republic of Croatia, the distrainor may propose that the court having jurisdiction over the area where the register of ships is kept and where the ship has been registered, or if the ship has not been entered into the Croatian register of ships, that any competent court in the Republic of Croatia, renders a ruling on distrainment. The distrainor may in that case submit the ruling on distrainment to any competent court having jurisdiction over the area where the ship is located in order to conduct the distrainment.

Article 847

(1) The competent court deciding on the proposal for distrainment through the establishment or a preliminary note of a court mortgage on a ship or a ship under construction, entered into a register of ships or a register of ships under construction, shall be the court having territorial jurisdiction over the area where the register of ships or ships under construction is kept, and where the ship, or a ship under construction, has been registered.
(2) The authority keeping the register of ships where the ship or a ship under construction has been entered shall have jurisdiction over the distrainment of security measures through the establishment or a preliminary note of a court mortgage on ships as stipulated by Paragraph 1 of this Article.

Article 848

(1) The court deciding on the proposal for securing maritime monetary claims by establishing a court mortgage on a ship or a ship under construction, on the basis of mutual consent of the parties involved, shall be the court having territorial jurisdiction over the area where the register of ships or ships under construction is kept in which the ship has been registered.
(2) The security established shall be conducted by the authority keeping the register of ships or ships under construction.
(3) If a ship or a ship under construction has not been registered in the register of ships or ships under construction, the decision regarding the proposal for the settlement of monetary claims by establishing court mortgage on a ship or a ship under construction on the basis of mutual consent of the parties involved and for the distrainment of security, shall be reached by a court having jurisdiction over the area in which the ship or the ship under construction is located at the time the proposal has been submitted.

Article 849

(1) When a temporary measure is to be entered in a register of ships or a register of ships under construction, prior to initiating a lawsuit or other judicial proceedings, the court having territorial jurisdiction over the area where the ship or ship under construction has been entered into the register of ships or the register of ships under construction, shall decide on the proposal for establishing security by means of a temporary measure. The above temporary measure shall be executed by the authority keeping the register of ships or a register of ships under construction.
(2) If a lawsuit or other judicial proceedings have been initiated as stipulated by Paragraph 1 of this Article, the jurisdiction over proposals for establishing security by means of a temporary measure shall be exercised by the court before which the proceedings had been initiated. The temporary measure reached by the court shall be carried out by the authority keeping the register of ships or the register of ships under construction.
(3) If the temporary measure need not be recorded in the register of ships, prior to initiating a lawsuit or other judicial proceedings the court having territorial jurisdiction over the area where the ship is located at the time when the proposal for establishing temporary measures has been submitted, shall decide on the proposal for establishing security by means of a temporary measure. If a ship entered into a Croatian register of ships is not located in the territorial or the internal waters of the Republic of Croatia, territorial jurisdiction in deciding on the establishment of a temporary measure shall be exercised by the court in whose area the register of the ship is kept in which the ship has been entered.

(4) If it is not necessary to conduct a temporary measure by way of its entry in the register of ships, after filing a lawsuit or other judicial proceedings, such temporary measure may also be decided upon by the court before which the proceedings have been initiated.
(5) In cases referred to in Paragraphs 3 and 4 of this Article, the court having territorial competence to implement the temporary measure shall be the court having jurisdiction over the area in which the ship is located at the time when such a measure is conducted.
(6) If at the time of submitting the proposal for establishing a temporary measure the entry of which into the register of ships is not necessary it is unknown whether the ship is located within the territorial sea or the internal waters of the Republic of Croatia, the distrainor may propose for the court in whose area of jurisdiction the register of ships is kept and where the ship has been registered, or for another competent court in the Republic of Croatia if the ship has not been entered into a Croatian register of ships, to render a ruling on initiating such a temporary measure. The distrainor may in this case submit the ruling on the establishment of a temporary measure to any competent court in the jurisdiction of which the ship is located, along with the proposal that the distrainment be conducted by the same court.

Article 850

Territorial jurisdiction over distrainment or security of the cargo on board a ship on which distrainment or security is being conducted shall be exercised by the court established as the court for conducting the distrainment or security on a ship not entered into a register of ships.

Article 851

(1) Territorial jurisdiction regarding decisions on proposals for the distrainment based on decisions rendered by foreign courts and for completing such distrainment shall be determined by applying regulations pertaining to territorial jurisdiction of a court over distrainment on the basis of decisions rendered by the Croatian courts.
(2) Provisions of Article 847 of this Code shall equally apply to cases when security by establishing a court mortgage on a ship is sought on the basis of a decision granted by a foreign court.

Title II
DISTRAINMENT FOR THE SETTLEMENT OF MONETARY CLAIMS ON SHIPS

1 Distrainment Restrictions

Article 852

(1) Provisions of the Distrainment Act pertaining to the restrictions of distrainment shall not apply if distrainment is undertaken for the purpose of settling the claims secured by the right of pledge or a similar right on a ship or a ship under construction.
(2) Provisions of the Distrainment Act pertaining to restrictions of distrainment shall neither apply to distrainment through the sale of a ship nor to distrainment demanded for the settlement of the following claims:
1) damages arising from a collision of a ship on which distrainment is being conducted or damages otherwise caused by the same ship,
2) the loss of life or personal injury caused by a ship on which distrainment is being conducted or caused due to the employment of the same ship,
3) salvage operations,
4) contract for the employment of a ship subject to distrainment,
5) general average,
6) towing
7) pilotage
8) supplies of a ship which is subject to distrainment, for the purpose of maintenance or employing such a ship,

9) construction, modification, repair, outfitting or docking of the ship subject to distrainment,
10) labour related rights of the ship crew,
11) expenses pertaining to the ship made by the captain, shipper, charterer or agent on behalf of the ship or the ship owner or the ship operator.

2 Distrainment Proceedings

Article 853

Distrainment on a ship entered into the register of ships or on a ship under construction entered into the register of ships under construction shall be conducted by a notice on distrainment in the register, by establishing the value of the ship or a ship under construction, by a sale of a ship or a ship under construction and payment of the distrainor from the amount obtained by sale.

3 Distrainment Proposal

Article 854

A proposal for distrainment on a ship for settling monetary claims, should in particular contain:
1) the name, occupation, residence or domicile and citizenship or the company name, seat and nationality of the distrainor,
2) the name, occupation, residence or domicile and citizenship or the company name, seat and nationality of the distrainee,
3) the name and mark of the ship, its type, port of registration and nationality,
4) the register of ships where the Croatian ship has been entered,
5) place where the ship is currently located or an indication if the current location of the ship is unknown,
6) currency and amount of the claim for which sale is sought,
7) indication of the documents on the basis of which distrainment is requested,
8) a list of known pledge distrainors or holders of other rights which shall expire upon the sale of the ship,
9) a statement as to whether any security instrument has been established in respect of the ship subject to distrainment,
10) if possible, the volume and type of cargo, and the number of crew members on board.

Article 855

(1) In addition to the proposal specified in Article 854 of this Code, the distrainor shall also enclose:
1) the original or a certified copy of the document (distrainable or authentic document) based on which distrainment is demanded,
2) a document attesting the existence of a mortgage on the ship and the cargo and of the pre-emption rights which have been entered into the register of ships, complete with information on known maritime liens in respect of the ship subject to distrainment,
3) information on known maritime liens.
(2) If distrainment is conducted on a Croatian ship, the proposal should be accompanied with an excerpt from the register of ships attesting the ownership of the distrainee over the ship or, if the ship has not been entered into the register of ships, a document attesting that the ship subject to distrainment is in actual possession of one or more distrainees. If the ship is registered to a person other than the distrainee, the proposal may be admitted provided that the distrainor submits an appropriate document for registering the distrainee' rights.
(3) If a foreign ship on which distrainment is sought had already been intercepted at the time of the proposal for distrainment has been submitted, attached to the proposal shall also be a certified copy and the Croatian translation of the document, in compliance with the regulations of the Republic of Croatia, by means of which document the ownership and nationality of the ship is proved in accordance with the law of the country to which the ship belongs.

(4) If the foreign ship subject to distrainment at the time of submitting the proposal for distrainment has not yet been intercepted, the distrainor must provide credibility to the fact that the ship is owned by the distrainee.
(5) If a foreign ship on which distrainment by sale is conducted has been intercepted, the court shall summon the distrainor to submit, within three days, the documents indicated in Paragraph 3 of this Article.
(6) Should the distrainor fail to act in accordance with provisions from Paragraph 5 of this Article, the court shall issue a ruling whereby the distrainment proceedings are discontinued.

4 Distrainment Ruling

Article 856

(1) The court's ruling on the distrainment by sale of the ship shall be delivered in conformity with provisions of the Distrainment Act pertaining to personal delivery of rulings to the parties and to all persons who, according to the data in the relevant document, have a right of pledge, right to settlement, usufruct rights or a right of pre-emption pertaining to the ship being subject to distrainment.
(2) In addition to delivering the ruling referred to in Paragraph 1 of this Article, the court shall also notify the persons in whose benefit a right of pre-emption has been entered that in the course of the sale proceedings they shall not be permitted to invoke their right of pre-emption.
(3) Should the distrainee's residence be unknown, or should the debtor be abroad, the court shall officially appoint the captain of the ship as a temporary representative of the distrainee and shall deliver the ruling on distrainment to him. If the captain has disembarked from the ship, the court shall appoint another appropriate person as a temporary representative for the performance of this duty.

Article 857

(1) Upon rendering a ruling on the sale of a ship which has been entered into a register of ships, the court shall officially order that a note of the ruling be entered into the register of ships.
(2) When rendering a ruling on the sale of a ship not entered into a register of ships, the court shall officially order that the ship inventory be listed for confiscation purposes.
(3) The effect of the notice referred to in Paragraph 1 of this Article, or of the inventory listing referred to in Paragraph 2, is manifested in the fact that the sale of a ship for the purpose of settling the claim of the distrainor may be undertaken against any person who may subsequently acquire the ownership right over the ship subject to sale (right to settlement) and that the distrainor, in whose benefit the notice of the ruling has been entered and the ship's inventory taken, shall have priority in the settlement of his distrainment claim and any subsidiary claims over any other person who may later acquire a mortgage right or any similar right on the ship or over any person acquiring the right to settlement.
(4) Following the entry of the notice on distrainment, no entry of changes in the ownership right based on the disposability of the distrainee, regardless of when this disposability has been undertaken, shall be permitted.
(5) The change of the ship owner, following the entry of the notice on distrainment shall not prevent the continuation of distrainment proceedings against the new owner as a distrainee. All activities undertaken before that shall remain in effect and, during the proceedings, the new owner shall not be permitted to undertake activities which the former owner could not have undertaken, had there been no changes in ownership.
(6) The time decisive for the priority ranking of the settlement pertaining to the distrainor shall be the time at which the court conclusion ordering the entry of ruling on distrainment as referred to in Paragraph 1, has been submitted to the authority keeping the register of ships or when the ship's inventory, according to Paragraph 2 of this Article, has been listed.

prijevod: Jasenka Težak Štefanić

(7) If the distrainment object has not been entered into the register of ships, the priority ranking shall be decided when the application for taking the inventory has reached the court having jurisdiction for conducting the distrainment or, if that court is competent for rendering a ruling on distrainment - at the moment when this court has received the proposal for the sale of the ship.

Article 858

If the inventory of the ship subject to sale has been taken in any previous proceedings, and that ship has not been entered into a register of ships, a specific distrainment shall be entered in the minutes of the previous inventory.

Article 859

(1) Upon entering the notice of the ruling on distrainment, or upon taking the ship's inventory for the purposes of confiscation, until the sale procedure has been discontinued, no separate sale proceedings in favour of other distrainable claims in respect of the same ship may be carried out.
(2) The distrainors in whose favour a ruling on distrainment on the ship shall be rendered in the course of the sale proceedings as referred to in Paragraph 1 of this Article, until the ruling on the adjudication of the ship becomes final, shall join the initiated sale proceedings and shall take over the ship in the same condition as at the time of their joining the proceedings.
(3) The court shall notify all persons referred to in Article 856 of this Code on the participation of new distrainors in the sale proceedings.

5 Distrainment Implementation

Article 860

After rendering or when receiving a ruling on distrainment, the distrainment court shall, without delay:
1) order the interception of the ship (Article 951) and accordingly call upon the territorially competent port authority to seize the ship’s certificate of registration or a ship certificate, crew list, and documents pertaining to the ship's seaworthiness, and - in the case of a foreign ship - documents equivalent to these Croatian documents,
2) if necessary, order the custody of the ship,
3) take the inventory of the ship and its appurtenances, the value of which shall be separately determined, in accordance with Article 867, Paragraph 3 of this Code,
4) make a list of the crew and passengers remaining on board, and list the type and quantity of the cargo on board the ship.

Article 861

(1) The court may entrust the custody of the ship to its captain, authorising him to retain the necessary number of officers and crew members for the same purpose. The court may also order that the officers and crew members, including the captain of the ship, disembark, and appoint other custody personnel.
(2) In deciding whether to entrust the custody of the ship to its captain or to another person the court shall, while taking into account the proposals of the distrainor, take into consideration the safety of the ship, custody expenses, and other significant circumstances.

Article 862

(1) Upon proposal of the parties, the captain of the ship or a custodian of the ship, the court may order that the ship be relocated if this is necessary for the purpose of the ship's safety, or for any other reason, in particular for the purpose of minimizing the ship’s custody and maintenance costs.
(2) The place where the ship is to be moved, in compliance with Paragraph 1 of this Article, need not be located in the area under jurisdiction of the court conducting the distrainment.

Article 863

prijevod: Jasenka Težak Štefanić

(1) Should a person authorised to dispose of the cargo on board the ship which is subject to distrainment fail to report to the court within three days from the interception of the ship, the court shall officially appoint a temporary representative for that person.
(2) While the cargo is on board it shall be under the custody of the captain of the ship or any person appointed by the court as a custodian.
(3) Upon request of the person authorised to dispose of the cargo, or his temporary representative, of the distrainee or the captain of the ship, and - should there be justifiable grounds - also upon the proposal of the ship's custodian the court shall allow the cargo to be unloaded and placed in storage in a public warehouse or in any other appropriate place.
(4) The court shall allow the person authorised to dispose of the cargo or his temporary representative to dispose freely of the cargo, provided that this is not opposed by the ship operator, captain of the ship, or another ship operator's representative.
(5) Whether the captain of the ship disembarks by order of the court or voluntarily, this fact shall not affect his authority to represent the ship operator or entrepreneur in respect of the cargo found on board at the time of the ship's interception.
(6) Provisions of Paragraphs 1 to 5 of this Article shall not affect the rights and duties of the parties arising out of the contract on transport of goods by sea.

Article 864

(1) Passengers and their luggage shall be disembarked from the ship subject to distrainment.
(2) By way of derogation from provisions of Paragraph 1 of this Article, the court shall, upon request of the distrainee, allow the passengers to remain on board with their luggage provided that this is not opposed by the distrainor or the ship's custodian and if the distrainee prepays the expenses for the passengers' support.
(3) Provisions of Paragraphs 1 and 2 of this Article shall not affect the rights and liabilities of the parties arising from the contract on transport.

Article 865

(1) The expenses of conducting the distrainment, custody and maintenance of the ship shall be preliminarily borne by the distrainor.
(2) The court may order that the amount required to cover the costs of conducting distrainment be advanced by the distrainor.
(3) If the distrainor fails to deposit the advance amount within the time period ordered by the court, the court shall by a ruling discontinue distrainment proceedings.

Article 866

(1) Upon request of a party interested, after hearing the parties and known creditors with any proprietary burdens on the ship, the court may, based on justifiable grounds, allow the ship to undertake one or several voyages in the course of the distrainment proceedings only.
(2) The court shall not allow any voyage as referred to in Paragraph 1 of this Article to be undertaken unless an insurance contract for the ship has been concluded under the terms which the court considers appropriate, and unless the party proposing the voyage provides for adequate security, available to and transferable in favour of the creditor for covering damages which may arise from such a voyage.
(3) For the purpose of hearing the parties and other creditors as referred to in Paragraph 1 of this Article, the court shall schedule a hearing or shall deliver to the authorised persons a written proposal with the conditions under which the permission for undertaking the voyage has been demanded, and shall call upon the parties to declare their stands thereon within three days from the date the proposal had been delivered.
(4) Should any of the persons summoned fail to attend the hearing or declare their stands on the proposal as specified in Paragraph 3 of this Article, it shall be deemed that such a party agrees to the undertaking of the proposed voyage.

prijevod: Jasenka Težak Štefanić

(5) The person proposing the voyage permitted shall, upon request of the court, advance the costs of such a voyage. If the same person fails to do so within the period of time determined by the court, the voyage shall not be undertaken.

6 Determining the Ship Value, Inventory Taking and Evaluation of the Ship's Appurtenances

Article 867

(1) The court shall decide on the manner of determining the ship value immediately after the ruling of distrainment has been reached. If necessary, the court shall, before issuing the ruling, hold a hearing with the parties.

(2) Establishing the ship value shall be carried out after the ruling on distrainment becomes final, or earlier if the distrainor so proposes and advances the necessary funds for the distrainment proceedings and declares that, should the distrainment be discontinued, he shall bear the expenses for establishing the ship value.

(3) Appurtenances not regularly carried on ships of a similar type as the ship subject to distrainment and which are of a higher value, or the parts temporarily detached from the ship shall be separately listed and evaluated.

4) The value of a ship shall be determined in an amount corresponding to its market price valid on the evaluation date.

(5) In determining the value of a ship it is necessary to indicate the value the ship subject to distrainment has with proprietary burdens remaining in force, the value of the same ship with no such rights and burdens and, separately, the value of proprietary burdens.

(6) If the value of a ship subject to distrainment was determined in previous distrainment or bankruptcy proceedings, and no significant change has occurred since then, the court may decide that the value of the ship determined in the previous proceedings be taken as the ship value. Before rendering the ruling the court shall hear both parties.

(7) Upon proposal of any party, which must be submitted no later than eight days before the sale hearing, the court may decide, at the sale hearing, to reassess the ship value if any party provides credibility that this value has changed for more than one third, from the date of the previous establishing of the value until the date the proposal has been submitted.

(8) If the parties have determined the value of the ship in court or by an out-of-court agreement on the basis of which a lien has been acquired on the ship for securing claims whose settlement is being required, the ship value shall not be separately determined, and the value determined in the agreement shall be considered to be the ship value.

(9) In the case set forth in Paragraph 8 of this Article, the court may, on the proposal submitted by the distrainee within the period for filing an appeal against the ruling on distrainment, determine that the value of the ship be again reassessed, if the distrainee provides credibility that after the agreement has been concluded, the value of the ship has increased for more than one third. The distrainee must advance the funds for covering the reassessment of the ship value within eight days from the delivery date of the court ruling by which his proposal has been accepted. If the distrainee fails to comply with the decision of the court within that time limit, it shall be deemed that he had waived the proposal.

(10) Provisions from Paragraph 8 of this Article shall not apply if pledge creditors, persons authorized to the right of settlement or usufruct which shall expire with the sale of the ship, are registered in the register of ships, which are to be settled in the distrainment on the ship before the creditor who has requested distrainment, unless otherwise agreed.

Article 868

(1) The court shall notify the parties involved about the hearing to be held for determining the ship value and the list of appurtenances.

(2) The hearing as referred to in Paragraph 1 of this Article shall, as a rule, be held at the place in which the ship is actually located.

(3) The court shall appoint one or more experts to determine the ship value.
(4) The ruling establishing the ship value shall be rendered at the court's discretion, taking into account the findings and expert opinions, as well as other data presented in the course of the proceedings.
(5) In the case referred to in Paragraph 8 of Article 867 of this Code the hearing for establishing the ship value shall not be scheduled.

Article 869

(1) Each person entitled to fulfil his claim from the sale proceeds of the ship and who, according to the priority ranking ranks before the distrainor, may propose the discontinuation of the distrainment if the determined value of the ship does not cover, even partially, the amount of the distrainor's claim.
(2) The proposal for the discontinuation of distrainment can be submitted within the period of eight days from the date of delivering the conclusion on sale.
(3) The court shall, according to circumstances of a case, decide on the purposefulness of the sale with regard to the probable amount for a partial settlement of the distrainor.
(4) In case of the discontinuation of distrainment from Paragraph 1 of this Article, expenses for the proceedings shall be borne by the distrainor who has initiated distrainment.

7 Terms and Conditions of Sale

Article 870

(1) The ship is as a rule sold at a public oral auction.
(2) All parties, pledge creditors and holders of personal burdens which expire at the time when the ship is sold, may agree, before the sale of the ship at a public auction, that the sale of the ship be completed in a direct agreement within a specified time period through a person authorised for the sale of ships, a court distrainor, a public notary or in another way.
(3) The contract on sale by a direct agreement shall be concluded in writing. The contract shall be concluded, on behalf of and for the account of the distrainee by the person entrusted with sale on the basis of the court decision whereby that person is authorized to conclude the contract. Signatures of persons concluding a contract must be certified by a public notary.
(4) The contract as referred to in Paragraph 3 of this Article shall enter into force from the date the ruling on adjudication becomes final.

Article 871

(1) Following the procedure for establishing the ship value the court shall reach a conclusion on sale of the ship by which the ship value is established, the terms and conditions of the sale as well as its time and place, if the sale is carried out at auction.
(2) The probability that the ship value shall be finally determined at the sale hearing shall be specifically emphasized in the conclusion on sale.
(3) At least fifteen days should elapse between the date the conclusion on sale has been announced at the court's notice board and the date of sale.

Article 872

The sale terms shall contain:
1) the name, residence or domicile and nationality of the distrainor or the name of the company, its seat and nationality,
2) the name, residence or domicile and nationality of the distrainee or the name of the company, its seat and nationality,
3) the name or mark, type, port of registration and nationality of a ship, its gross and net tonnage or displacement, deadweight tonnage, navigation limits; the data required for determining the condition and usability of the ship such as its purpose, year of construction, construction materials used on the ship, the type and power of the propelling machinery and special purposes equipment, and in case of ships under construction data on the building stage reached, as well as

an inventory and value of the materials not yet installed into the ship but which will be included in the sale,
4) specification of proprietary burdens to be assumed by the buyer, without inclusion of the same in the purchase price,
5) the established value of the ship,
6) indication of the lowest acceptable bid,
7) provisions concerning the method of granting and amount of security to be provided by bidders,
8) provisions concerning the time period for and method of paying the purchase price,
9) the sale procedure,
10) indication of the moment when risks and benefits shall pass to the buyer,
11) provisions in respect of the time when and the terms under which the ship is to be delivered to the buyer, particularly if the cargo on board was not unloaded before the ruling on adjudication becomes final, and the buyer's ownership right entered into the register of ships,
12) if necessary, provisions in respect of the sale of the co-owner's share in the ship,
13) special conditions the buyer must fulfil in order to acquire the ship.

Article 873

(1) Only persons having deposited security may take part in a public oral auction.
(2) Unless the court has decided otherwise at the request of the parties, the security to be deposited by the bidders shall amount to one tenth of the established value of the ship subject to distrainment.
(3) The security shall be deposited in cash, securities or other negotiable instruments available and freely disposable.
(4) The creditor who had proposed the distrainment, pledge creditors and persons authorized for personal usufruct which shall expire with the sale of the ship, if their claims reach the amount of security and if, considering their priority ranking and the established value of the ship that amount could be recovered from the proceeds of the ship sale, shall be exempt from depositing security.
(5) The Republic of Croatia, local and regional (district) self-government units and their bodies as bidders shall also be exempt from depositing security.

Article 874

(1) The security provided by the bidder whose offer has been accepted shall remain deposited with the court until the bidder has met all his obligations as per sale terms or until a court's ruling denying adjudication of the ship becomes final.
(2) The security shall be reimbursed to other bidders after the termination of the hearing for sale.
(3) The security deposited by the best bidder shall deliver as a pledge for all the obligations arising against him from the sale proceedings.

Article 875

Unless the court, upon proposal made by the parties and with consent of the person authorised decides otherwise, the buyer shall take over the adjudicated ship free of any proprietary burdens.

Article 876

(1) At the first sale hearing the ship cannot be sold for less than one half of the established value.
(2) If the ship has not been sold at the first sale hearing, the court shall schedule another hearing at which the ship can be sold for less than a half of the established value, but not for less than one third of that value.
(3) At least fifteen days should elapse between first and second hearing for the auction.
(4) Parties and persons settling their claims in the procedure may agree, by giving a statement for the record at the court at which the procedure is conducted or at any other court or to a public

notary, that the ship can be sold at the auction for the price lower than the one set out in Paragraphs 1 and 2 of this Article.
(5) If, before initiating the distrainment proceedings the parties consented, in an agreement signed at the court or in the form of a notarial document, that the ship, in order to pay for the claims of the distrainor determined in this agreement, may be sold for the price lower than the price stated in Paragraphs 1 and 2 of this Article, the ship may be sold for that price already at the first sale hearing, provided that other persons having claims to be settled and whose rights are entered in the register of ships before those of the distrainor by which the payment of his claims has been secured, have not joined the proceedings. The lower price for which the ship can be sold in that case, cannot be below one third of the established value.
(6) Provisions from the previous Paragraphs of this Article shall apply accordingly in the case when the ship is sold by a direct agreement.

Article 877

(1) The buyer shall have the obligation to deposit with the court or with a public notary the purchase amount within the time period determined in the conclusion on sale.
(2) The buyer shall be exempt from depositing the purchase amount or a part thereof in cash if the creditors whose claims have been secured by the right of pledge agree that the buyer assumes these debts.
(3) If the buyer has fulfilled all requirements of the sale terms, the cash deposited with the court or a public notary as security may be used as a part of the purchase amount.

Article 878

(1) After the buyer has deposited the purchase amount and has satisfactorily met all the sale terms, if these were prescribed, and after the decision on adjudication becomes final, the court shall order that the ship be delivered to the buyer together with the adjudicated appurtenances, the buyer's ownership right registered in the register of ships and all other rights and burdens deleted in the register of ships.
(2) The risks in respect of the ship sold subject to distrainment shall be assumed by the buyer on the date when the ship, adjudicated by a final ruling shall be delivered to him.

Sale Hearing

Article 879

(1) The hearing for the sale shall be established by a notice, provided that a period of a minimum of 15 days and no more than 30 days shall have expired from the date of the first publication of the notice until the actual date of the hearing.
(2) The sale hearing shall not be held before the ruling on the distrainment comes into force.

Article 880

The notice of sale hearing shall contain in particular:
1) designation of the ship and her appurtenances which will be offered for sale and the ship value subject to distrainment,
2) the name, or company name, its seat or residence and nationality of the parties involved,
3) the time and place where the sale hearing is to be held,
4) an indication of the lowest acceptable offer and security amounts,
5) notification that the sale terms and documentation of the ship subject to distrainment can be examined at the distrainment court,
6) a summons to pledge creditors whose rights have not been entered into a register of ships to submit their claims at the latest at the sale hearing, with a remark that their rights shall be taken into consideration in the proceedings only if the same arise out of the distrainment documents,
7) a summons to any person claiming any right on the ship which is subject to distrainment, due to which the aforesaid sale would not be permissible, to submit his claim to the court at the latest at the sale hearing but before the commencement of the public oral auction, with a warning that

the realisation of such a right with respect to the ship subject to distrainment shall no longer be possible to the disadvantage of a conscientious buyer,
8) a notice indicating that a person having any right or burden on the ship subject to distrainment shall be supplied with the information as to the future course of the proceedings on condition that the person's residence is in the Republic of Croatia or that he has a representative or a person authorised to receive court submissions in the Republic of Croatia.

Article 881

(1) The court shall deliver the notice of sale to the parties involved and to all persons who, according to the documents maintained by the court, have any proprietary burdens or pre-emptive rights.
(2) Concurrently, the court shall summon the creditors having claims covered by a right of pledge to declare their positions at least five days prior to the sale hearing as to whether their claims should be settled in cash payment or whether they agree that the buyer assumes the debt and thus frees the previous distrainee from the debt, and if they do not provide their positions on the issue within the specified time period, it shall be assumed that their claims are to be settled in cash payment.
(3) If, on the ship subject to distrainment a credit or surety mortgage is registered, the creditors shall be called to submit, at the latest before the commencement of sale, the amounts of their claims arising from legal relations secured by such a right of pledge.
(4) The notice of sale shall be delivered in accordance with provisions on personal delivery of notices in distrainment proceedings.
(5) The person on whom the notice of sale cannot be duly delivered, or in case of the failure of the attempt to deliver the notice, the court shall appoint a temporary authorised representative to whom the notice of sale shall be delivered.

Article 882

(1) The court shall publish the notice of sale in the Official Gazette of the Republic of Croatia on the court's notice board, as well as on the notice board of the territorially competent port authority.
(2) The parties may demand that the notice of sale be published at their own expense in any other way they propose.

Article 883

Should the sale of a domestic ship be conducted, the court shall order that the sale hearing be entered in the register of ships where the ship has been registered.

Article 884

(1) The distrainee shall, in the period between the notice publication and the sale hearing, make it possible for any person interested in participating in the aforementioned sale to inspect the ship subject to distrainment and to examine the ship documentation.
(2) The court shall issue a decision determining the days and hours when the ship may be inspected, taking into consideration the requirements for the undisturbed operation of the ship.

Article 885

(1) The sale hearing shall be public and shall be held, as a rule, in the court building.
(2) The court may order that the sale hearing be held in the place where the ship subject to distrainment is actually located.
(3) At the sale hearing the court shall present to the participating parties the sale terms and other documents pertaining to the sale proceedings.
(4) The sale hearing shall be also held in cases when only one bidder attends the hearing.
(5) The hearing shall be held in front of a single judge and minutes from hearing shall be conducted.

Article 886

prijevod: Jasenka Težak Štefanić

(1) Having establishing that no obstacles exist to the holding of the sale hearing, the court shall disclose the sale terms, data on the claims of creditors having the right of settlement from the purchase amount, statements made by the creditors having claims secured by the right of pledge on the ship with respect to the method of settlement or the assuming of their claims and about claims secured by credit or surety mortgage and on other circumstances of relevance for holding the sale hearing.

(2) The representatives of bidders are bound to provide evidence as to their powers of attorney at the hearing by means of a public document or a publicly certified power of attorney.

Article 887

(1) The court may order that the sale and payment of the purchase amount obtained from the sale of a foreign ship be effectuated in foreign currency, as provided by a separate act.

(2) Provision from Paragraph 1 of this Article may also apply when the sale is conducted in order to settle the claims of foreign creditors on a Croatian ship, and in cases when foreign natural or legal persons participate in a public auction in the capacity of bidders.

(3) If the claim secured by a mortgage on the ship has been registered in a foreign currency, the court shall determine the selling price in such currency.

Article 888

The offer shall be binding upon the bidder until a higher bid has been made (Article 889).

Article 889

(1) The court shall call upon all the parties present at the hearing to make their offers only after a period of half an hour has elapsed from the time determined for the commencement of the sale hearing.

(2) The public oral auction shall continue as long as higher bids are being submitted.

(3) In order to provide for the submission of higher bids, the court may, upon request of any bidder, allow for a brief period of deliberation.

(4) The public oral auction shall be terminated, if after a second call no higher bid has been submitted within a period of five minutes. The court shall particularly warn this bidders thereof.

(5) Prior to the closure of the sale the court shall once again announce the last bid and shall thereupon pronounce the sale closed.

Article 890

(1) When the court has closed the sale, it shall call upon those present immediately at the sale hearing to raise objections to the adjudication.

(2) Objections to the adjudication in favour of the most favourable bidder may only be based on the following grounds:

1) that a period of fifteen days has not elapsed from the date of the notice to the date of the holding of the sale hearing (Article 879),

2) that the notice of sale had not been correctly drawn up or published,

3) that not all persons whom the court was bound to notify were notified of the sale hearing,

4) that the sale proceedings were continued although a ruling was rendered whereby the proceedings had been discontinued,

5) that at the public oral auction provisions of this Code pertaining to auctions were violated,

6) that the conditions under which the highest offer was made were not in compliance with the determined sale terms,

7) that the highest bidder or his representative was not qualified to participate in the sale of the particular ship,

8) that the highest offer was not sufficient to fully settle the claim secured by the right of pledge together with the subsidiary claims of the creditor who raised the objection and whose claim ranks before the claim of the creditor who proposed the distrainment.

Article 891

prijevod: Jasenka Težak Štefanić

(1) The deficiencies as referred to in Article 890, Paragraph 2, Points 4), 6) and 7) of this Code shall be officially taken into account by the court. The court shall decide on other deficiencies solely when these have been timely mentioned in the objections raised.
(2) The court shall officially investigate and determine the facts on which the objections are based.

Article 892

(1) The court shall, as a rule, decide on the objections raised at the sale hearing.
(2) If, based on the objections raised, the court refuses to render the adjudication, the court shall, after hearing those present whom it was bound to notify of the sale hearing, decide whether to continue the sale at once or to schedule a new sale hearing.
(3) If the court decides that the sale be continued at once, the bidders who have taken part in the sale shall be bound by their previous bids if, due to higher bids, these have not lost their validity.
(4) If the objections have not been decided upon at the hearing itself, the court shall reach a decision by a ruling on adjudication.

Article 893

(1) If no objections have been raised and if it has been established that there are no deficiencies in respect of Article 890, Paragraph 2, Points 4), 6), and 7) of this Code, the court shall already at the sales hearing render a ruling on the adjudication of the ship subject to distrainment to the highest bidder, whose offer the same court has found to be the most acceptable. The above ruling shall be announced at the hearing.
(2) The ruling on the adjudication shall be announced in public within a period of eight days on the court's notice board.
(3) It shall be deemed that the ruling has been delivered to all persons to whom the conclusion on sale has to be sent as well as to all parties participating at the auction, on the expiry of the third day from the date of its announcement on the court’s notice board. These persons shall have right to obtain the ruling in the court’s registry office.
(4) The ruling on adjudication as referred to in Paragraph 3 of this Article shall be published on the court’s notice board and shall be delivered to all persons to whom the ruling on sale of the ship to the buyer has been delivered. Objections against the adjudication as referred to in Article 890 of this Code, may be stated in an appeal against the ruling on adjudication.
(5) The ruling on adjudication shall be entered into the register of ships.
(6) The effect of this entry shall be that any subsequent entries in the register of ships will give rise to the establishment of rights against the theretofore owner of the ship, only if such a ruling on the adjudication has been set aside.
(7) The court shall order, by the ruling on adjudication to have the ship delivered to the buyer, after the buyer has deposited the purchase amount and once this ruling becomes final.
(8) Once the buyer deposits the purchase amount and the ruling on adjudication comes into force, the court shall order to have the ship delivered to the buyer and the right of ownership registered in his name into the register of ships. By this ruling, the court shall order the deletion of the rights for which the ruling on adjudication has established the deletion from the register of ships.
The ruling as referred to in Paragraph 2 of this Article shall not be appealable.

Article 894

(1) An adjudication on the ship subject to distrainment may not be rendered unless the bids made at the hearing reach the lowest acceptable amount of bid (see Article 876).
(2) The court shall by a ruling refuse to render the adjudication, if it has established that the objections raised are justified, if the existence of any deficiencies has been found that officially fall under the court’s jurisdiction, or if it has found that the sale was held before the finality of the ruling on the distrainment and the ruling on sale.
(3) The ruling on the refusal of adjudication shall be recorded in the register of ships.

prijevod: Jasenka Težak Štefanić

(4) Should an appellate court, when reviewing appeals against the ruling as referred to in Paragraphs 1 and 2 of this Article, render a ruling on adjudication, the notice of the adjudication shall become legally valid on the date when the notice of refusal of the adjudication has been granted (Paragraphs 1 and 2).

Article 895

(1) The ruling on adjudication can be contested by means of an appeal based on the grounds specified in Article 890, Paragraph 2, and Article 894, Paragraph 1 of this Code and on the grounds that the ruling is not in accordance with contents of the court documents it is founded on.
(2) The person to whom the court has adjudicated the ship which is subject to distrainment may contest this on the grounds that the court was bound to refuse the adjudication, or to render an adjudication ruling under the terms and conditions other than those indicated in the ruling on the adjudication.
(3) The ruling whereby the adjudication has been refused may be contested on account of its failure to comply with the contents of the court documents it is founded on, or the absence of legal grounds for refusing the adjudication.
(4) The person raising an objection to the adjudication in the course of the hearing for the ship's sale shall not be entitled to appeal against the ruling whereby the rendering of the adjudication has been refused.

8 Second Sale Hearing

Article 896

(1) If the finality of the adjudication refusal has come into force because the lowest acceptable bid had not been cited, the court shall schedule a new sale hearing, provided that such a proposal is made by the distrainor who had requested the distrainment within the period of eight days of the date of the unsuccessfully held hearing.
(2) Before a new sale hearing is scheduled, the court may order that the value of the ship subject to distrainment be re-examined and may then order a hearing for considering the changes in the sale terms.
(3) A period of no less than 30 days must elapse between the first and the second sale hearing.
(4) Should the distrainor proposing distrainment fail to file a proposal for a new sale hearing within the period as referred to in Paragraph 1 of this Article, the court shall render a ruling whereby the distrainment proceedings are discontinued.

Article 897

(1) If the court refuses to render the adjudication on grounds other than those given in Article 896 of this Code, and if there are no deficiencies that make the continuation of the proceeding inadmissible, the court shall officially decide upon a new hearing for the sale of the ship.
(2) The sale at the new hearing shall be conducted on the basis of the previously determined terms.

10. Finality of the Ruling on Adjudication

Article 898

When a ruling on the refusal of adjudication has come into force, the court shall return the deposited security to the highest bidder.

Article 899

(1) When the ruling on the adjudication of the ship becomes final, the court shall, upon proposal of the buyer or the person authorized for the cargo or his temporary representative, order that the cargo be unloaded from the ship and respectively, upon the request of the buyer, the persons on board including their personal belongings be disembarked.

(2) The expenses of unloading cargo as referred to in Paragraph 1 of this Article shall, upon request of the court, be paid in advance by the person requesting the unloading, unless otherwise specified in the sale terms.
(3) If a person acting as a ship operator prior to the sale of the ship, or his representative, objects to the delivery of cargo for free disposal to the person authorized for cargo, the court shall order that the cargo be delivered, at the expense of the ship operator, for storage in a public warehouse or to any other convenient location.
(4) Provisions of Paragraphs 1 to 3 of this Article shall not affect the rights and liabilities of the parties arising out of the contract on the transport of goods.
(5) The ruling ordering the unloading of the cargo, the disembarkation of persons and their belongings and the placing of the cargo in storage of a public warehouse or in any other convenient location, shall not be appealable.

Article 900

The owners of the ship's appurtenances who did not participate in the sale of the ship are entitled, after the adjudication becomes final, to take such appurtenances away from the ship at their own risk and expense.

Article 901

The ownership rights acquired by the buyer on the basis of the final adjudication of the ship shall not be contested on the grounds that a distrainable document had been revoked or modified.

11 New Sale

Article 902

(1) If the buyer does not deposit the purchase amount within the determined period, the court shall declare the sale invalid and order a new sale procedure.
(2) The expenses for the new sale shall be paid from the security deposited, while the difference between the purchase amount obtained from the proceedings and the new sale shall be compensated.
(3) The proposal for a new sale may be given by the parties, creditors whose claims are secured by a mortgage on the ship subject to distrainment and by creditors for whose maritime liens no distrainable document exists.
(4) The party proposing a new sale shall make a request for a new sale within a period of no later than ten days following the expiry of the term as referred to in Article 877, Paragraph 1, of this Code. Should no request for a new sale be made within the said period, the court shall, by a ruling, discontinue the distrainment proceedings and release the ship subject to distrainment.
(5) A new sale shall be conducted in accordance with provisions pertaining to the first sale and according to the sale terms previously determined.
(6) A new sale shall not be held if the buyer whose payment of the purchase amount is in arrears provides evidence, no later than fifteen days before the new hearing for sale shall be held, that he has paid the outstanding purchase amount together with the interest and the advance amount required for covering damages incurred until this time.
(7) The advance amount from Paragraph 6 of this Article which the buyer must pay before the new hearing for sale shall be determined by the court, upon proposal of the buyer, and at its own discretion, and its final amount by a ruling based on well argumented requests of the persons authorized to seek reimbursement for the damages incurred (Article 903, Paragraph 3) and for expenses of the hearing held. The authorized persons are bound to submit these requests within the period of eight days from the date of receiving the court summons for the submission of requests.
(8) By its ruling as referred to in Paragraph 7 of this Article the court shall order the buyer to reimburse, within eight days, to the requesting parties the amount of damages caused to them by

this delay in the payment of the purchase amount. An appeal may be lodged against the final ruling on the reimbursement for damages.

(9) On the basis of the ruling as referred to in Paragraph 7 of this Article, the buyer is bound to deposit, within eight days, at the court or with a public notary the amount from this ruling or only the difference between that amount and the deposited advance (Paragraph 7).

(10) After the ruling as referred to in Paragraph 7 of this Article becomes final the court shall issue a conclusion ordering that the payment from the deposited amounts be effected (Paragraphs 7 and 9). The difference between the deposited amounts and those adjudicated by the final ruling may be covered by the distrainment against the buyer which the court that conducts the distrainment on the ship shall, at the request of the persons authorized, determine on the basis of that ruling.

Article 903

(1) If the price obtained at the new sale is lower than the price obtained at the previous sale, the buyer whose payment of the purchase amount was in arrears shall be liable, with his security, the deposited portion of the purchase amount and with his other property to cover the balance thus caused, the expenses of the new sale, and any damages caused by this delay.

(2) The distrainment court shall officially determine the amount of the balance in respect of the price achieved as well as the amount of the expenses as referred to in Paragraph 1 of this Article.

(3) On the basis of the final ruling as referred to in Paragraph 2 of this Article, the court shall carry out distrainment on the security deposited, the paid-off portion of the purchase amount, and, if appropriate, on any other assets or property of the buyer. The distrainment shall be carried out upon request of any person entitled to cover their claims from the purchase amount.

(4) The distrainment shall be performed in favour of the distribution money. The difference between the price achieved at the new sale and the previous sale shall also contribute to that amount.

(5) The buyer late in the payment of the purchase amount shall not be entitled to the amount by which the purchase amount attained at the new sale exceeds the same price achieved at the previous sale.

12 Discontinuation of Proceedings

Article 904

(1) In addition to the grounds for discontinuing the distrainment arising from provisions of the Distrainment Act and other grounds as provided for in this Code, the sale proceedings shall be discontinued:

1) when a third person, no later than eight days before the date of the sale hearing, by providing an appropriate security, declares that he is willing to take delivery of the ship subject to distrainment at a price exceeding the determined price of the ship by at least one fourth, and if such a person declares that he will bear all the expenses that would otherwise have to be borne by the distrainee,

2) when so required by the pledge creditor who, no later than before the commencement of the auction at the sale hearing, buys off the claims on account of which the sale has been initiated, and if he compensates the expenses which should otherwise be borne by the distrainee,

3) when before the commencement of the sale, the distrainor waives the sale proceedings, in which case it will not be possible to propose with respect to the same claim the continuation of the sale proceedings before the expiry of a period of six months from the date of the discontinuation of the sale proceedings,

4) when before the commencement of the sale, the distrainee deposits with the court the amounts necessary for the full settlement of the distrainable claims as well as of the costs of the proceedings incurred by all creditors having demanded distrainment,

prijevod: Jasenka Težak Štefanić

5) if no lowest acceptable bid has been made at the second sale hearing (Article 916, Paragraph 1, and Article 917).

(2) In the case of a sale by a direct agreement, the court shall discontinue distrainment proceedings if the ship could not have been sold within the period specified in the agreement of the parties and persons settling their claims in the proceedings.

Article 905

(1) If the court accepts the proposal for the discontinuation of the sale as referred to in Article 904, Paragraph 1, Point 1) of this Code, the court shall render a ruling whereby the sale proceedings are postponed.

(2) If the party proposing the discontinuation as per Article 904, Paragraph 1, Point 1) of this Code fails to deposit an appropriate security within a specified time, the court shall officially continue the suspended proceedings.

(3) The security deposited by the transferee shall, in the event of the continuation of proceedings as referred to in Paragraph 2 of this Article, contribute to the distribution money.

(4) The method of collecting the price for which the transferee has accepted to take delivery of the ship subject to distrainment, shall be governed accordingly by provisions of Article 903, Paragraphs 2, 3, and 4 of this Code.

(5) The court shall discontinue the sale proceedings after the transferee has paid the amounts as referred to in Article 904, Paragraph 1, Point 1) of this Code.

Article 906

(1) The court shall notify all persons referred to in Article 881, Paragraph 1 of this Code regarding the suspension or discontinuation of the sale proceedings.

(2) The court shall concurrently advise the distrainor who has proposed the distrainment about the rights pertaining to him in respect of the provision of Article 893 of this Code.

(3) Upon expiry of a period of 15 days from the date when the ruling on the discontinuation of the proceedings has become final, the court shall order that all notices in the register of ships or in the inventory which relate to the sale proceedings be deleted.

Article 907

(1) The distrainor in whose favour a notice of permitting the sale has been entered into the register of ships may, within the period of 15 days from the date the ruling on the discontinuation of the sale proceedings has become final, propose to the court in charge of the distrainment that, according to the priority ranking of the said notice in favour of his distrainable and subsidiary claims, a mortgage be recorded on the ship subject to distrainment.

(2) The fact that in the meantime the distrainee alienated or burdened the ship subject to distrainment shall in no way affect the entry of mortgage.

(3) The proposal made in accordance with Paragraph 1 of this Article shall not be accepted if the sale proceedings have been discontinued in consequence of the distrainment being altogether inadmissible, or because the distrainable document had been effectively set aside or proclaimed ineffective, as the claim for which distrainment is being conducted has been settled or because a final ruling has established that the claim does not pertain to the distrainor.

13 Distribution of the Purchase Amount

Article 908

(1) After the purchase amount has been paid and the ruling on the adjudication becomes final, the court shall schedule a hearing for the distribution of the purchase amount.

(2) The court shall summon all the persons as referred to in Article 881, Paragraph 1 of this Code to the hearing, and shall notify the buyer granting him permission to participate in the hearing.

(3) In the summons to the hearing as referred to in Paragraph 1 of this Article the court shall warn the creditors that the claims made by creditors who do not attend the hearing shall be taken into consideration only as per condition arising from the register of ships and the relative

distrainable documents, and that at the latest at the hearing for the distribution of the purchase amount they may contest the existence of the claims made by other persons, the amount of such claims, and the ranking according to which these claims may be settled.
(4) The decision on scheduling the hearing shall be announced on the court's notice board.

Article 909

(1) Only those claims shall be considered at the hearing that should be taken into account for the distribution of the purchase amount and for the priority ranking of their settlement.
(2) The distrainee shall submit to the court all necessary explanations in order to determine the accuracy of the ranking of claims covered by the purchase amount.
(3) The creditor whose claims on the occasion of the distribution of the purchase amount would obtain rank if the contested claim had not been taken into account, may at the latest at the hearing for the distribution of the purchase amount raise objections against the claims reported, or the claims arising from the distrainable documents. The objection may refer to the existence of the claims, their amounts and settlement ranking.
(4) The distrainee shall be entitled to raise objections only in respect of those claims for which he asserts that no grounds whatsoever exist for their settlement.
(5) The claims which can not be settled from the purchase amount even if the contested claims enjoying a better priority ranking had not been taken into account, shall not be admitted for consideration by the court.

Article 910

(1) The distribution money shall consist of:
1) the purchase amount
2) security deposited by the buyer in arrears of the purchase amount payment, part of the purchase amount deposited by him, and any other amount compensated by the buyer,
3) the revenue and income obtained from the ship subject to distrainment, which the buyer is bound to reimburse,
4) revenue from the ship's voyage undertaken in the course of the sale proceedings,
5) the amounts referred to in Paragraphs 2 and 3 of this Article.
(2) The purchase amount which refers to the ship subject to distrainment, regarding the incidences on the ship subject to distrainment, and the freight or fare shall constitute separate distribution money, depending on which of these amounts the maritime liens or mortgage claimed by the distrainors requesting distrainment, are related.
(3) The freight, passage fare and the amounts relating to the ship's appurtenances which were paid by the time of the closure of the hearing for the distribution of the purchase amount, shall be distributed according to the ruling on the distribution of the purchase amount obtained from the sale of the ship subject to distrainment.

Article 911

(1) Pledge creditors who have not required distrainment shall also be compensated in the distrainment proceedings.
(2) Creditors whose claims have been secured by a mortgage on the ship shall be compensated from the distribution money even if they have not registered their claims.
(3) Creditors whose claims have secured by a maritime lien shall be compensated from the distribution money providing they have registered their claims.
(4) In the case when claims referred to in Paragraph 3 of this Article are contested, the court shall, until the termination of the hearing, set aside from the distribution money funds which will suffice for covering the contested claim.
(5) If maritime lien shall not be determined at the hearing, the funds referred to in Paragraph 4 of this Article shall be distributed to other creditors.

Article 912

prijevod: Jasenka Težak Štefanić

(1) The creditors' claims covered from the distribution money shall be settled in accordance with the following priority ranking:
1) creditors whose claims are secured by maritime lien,
2) creditors with the right of retention, as referred to in Article 438 of this Code,
3) creditors whose claims have been secured by a mortgage on the ship,
4) other creditors.
(2) The expenses arising in the course of the ship sale proceedings shall be settled before the distribution of the purchase amount and before the settlement of the claims secured by maritime liens.

Article 913

(1) The priority ranking of the principal shall also apply to the interest charges of that principal which are not in arrears for a period longer than three years of the date of adjudication, and to litigation and distrainment expenses incurred for the purpose of settling any of these claims.
(2) Recurring payments which have not been in arrears for a period longer than three years prior to the date of the adjudication shall have the same priority ranking as the rights underlying such payments.
(3) Should the distribution money be insufficient to cover the creditors' claims, the costs and subsidiary claims shall be settled before the payment of principal.

Article 914

Provisions of this Code pertaining to mutual priority ranking of the settlement of maritime liens or mortgage on a ship shall apply to the determination of mutual priority ranking for the settlement of the creditors whose claims belong to the same category, as specified in Article 912, Paragraph 1, Points 1) or 3) of this Code. Provisions from Article 857, Paragraph 3 of this Code, shall apply to the determination of mutual priority ranking of the settlement of the creditors whose claims belong to the same category as specified by Article 912, Paragraph 1, Point 4) of this Code.

Article 915

The surplus of the distribution money remaining after the settlement of all the claims in respect of Article 912 of this Code shall be assigned by the court to the distrainee.

Article 916

(1) Claims depending on a cancelling condition shall be settled by way of cash payment only if the creditor provides security that, in the event the above condition occurs, he will return the amount received.
(2) If the creditor does not deposit the security within 15 days from the date of delivery with the ruling on the settlement, the amount required to cover his claim shall be submitted as a savings deposit with the bank.
(3) When it becomes obvious that the condition will not occur, the claim shall be paid to the creditor.
(4) If the cancelling condition occurs, the amount returned by the creditor or deposited with a bank shall be paid in favour of those creditors whose claims have not been entirely settled from the amount obtained from the sale, and, if there are no such creditors, the said amount shall be handed over to the distrainee.

Article 917

(1) If the payment of claims is subject to any deferrable condition, these claims shall be settled in such a manner that an appropriate amount shall be set aside and deposited with a bank as a savings deposit which shall be paid to the creditor when such a condition occurs.
(2) If the condition has not occurred, the deposited amounts shall be paid to those creditors whose claims have not been entirely settled from the amount obtained from the sale and if there are no such creditors, the said amount shall be handed over to the distrainee.

prijevod: Jasenka Težak Štefanić

Article 918

(1) If, with respect to proprietary burdens on the ship subject to distrainment, a notice of dispute or a notice to the effect that a lawsuit for the deletion of such rights has been entered in the register of ships, claims or compensations arising from such a right shall be settled in the same way as claims depending on a cancelling condition.
(2) If a preliminary note of a proprietary burden on the ship subject to distrainment has been made in the register of ships, and if the beneficiary of such a right proves that proceedings are under way for the justification of the preliminary note or that the time period for initiating such proceedings has not yet expired, the claim or compensation for such a right shall be settled in the same way as claims depending on the deferrable condition.

Article 919

(1) Claims secured by joint mortgage shall be settled in cash from the distribution money.
(2) If, in the sale proceedings all ships which are indivisibly liable for a claim are being sold, each ship shall contribute to the distribution money with its selling price, after deduction of expenses for sale and claims secured by maritime lien.
(3) If a creditor whose claim has been secured by joint mortgage seeks settlement of the claim in another proportion, the creditors whose claims, by priority ranking, rank behind the claims by the above creditor, and who in consequence of the same obtain an amount lower than they would obtain had the creditor been settled in accordance with Paragraph 2 of this Article, may seek that from the individual distribution money, the amount be paid to them which, if the distribution had been carried out according to Paragraph 2 of this Article, would have contributed to the claim secured by joint mortgage, if this is necessary to cover the deficit.
(4) If, in the course of the sale proceedings not all ships which are indivisibly liable are sold, in order to determine compensations due to creditors ranking behind the creditors whose claims are secured by joint mortgage, the value of individual ships burdened with joint mortgage, instead of individual distribution money shall be taken as the calculation basis. The creditors' claim for compensation shall be recorded in their favour on the unsold ships with the priority ranking of the entirely or partially settled claim of the creditor secured by joint mortgage. The court shall officially delete this joint mortgage on unsold ships.

Article 920

(1) Beneficiaries of usufruct rights which the buyer does not take over shall be settled by a compensation for their right from the amount obtained from the sale.
(2) If the beneficiaries of usufruct rights fail to reach an agreement with the creditors who rank behind them in settlement regarding the amount of compensation as referred to in Paragraph 1 of this Article, the amount of compensation shall be determined by the court, taking particularly into account the time for which the usufruct could still last, their value, the benefits of the usufruct beneficiaries and the age of the beneficiaries.
(3) The buyer, usufruct beneficiaries and creditors ranking in settlement behind them may agree that the buyer may take over the usufruct rights and that a specific amount as indemnity for the taking over of usufruct rights be deducted from the purchase amount.

Article 921

(1) The claim of a pledge creditor not due before the rendering of a ruling on the settlement shall be paid even before it becomes due, together with the amount of stipulated interests calculated until the date the ruling on the distribution of the purchase amount has been rendered.
(2) If interest charges for such a claim have not been specified, an amount shall be deducted which corresponds to legal interest rates charged from the date the ruling on the settlement was rendered to the date the claim had become due.

Article 922

prijevod: Jasenka Težak Štefanić

(1) If it is unknown who this holder of the mortgage claim which would according to its ranking be covered by the distribution money is, or when his residence is unknown, the court shall deposit the amount pertaining to this claim with a bank as a savings deposit, and shall specify in the ruling on the distribution of the purchase amount to whom this amount will go if the creditor does not collect it.

(2) If the creditor in whose favour the amount referred to in Paragraph 1 of this Article has been deposited does not collect the amount within a period of three years from the date when it was deposited with a bank, any creditor who would be entitled to this amount or a part thereof may demand that the amount which corresponds to his claim be paid to him. If there are no such creditors, the payment may be requested by the distrainee.

Article 923

(1) If pledge creditors seeking settlement from the purchase amount cannot be fully settled, the court shall upon proposal of any one of them or of the creditor who has proposed the distrainment, order the persons to whose debts maritime liens or mortgage on the ship extend, to deposit the amounts due with the court within a specified term, if this is necessary to settle the claims of the transferee and those having a more favourable priority ranking for settlement.

(2) The proposal as referred to in Paragraph 1 of this Article shall be submitted in the course of the distrainment proceedings, at the latest at the hearing for the distribution of the purchase amount.

(3) The orders issued to the distrainee's debtors on the basis of Paragraph 1 of this Article shall cause that any payment that they would make to the distrainee or a third party contrary to the court's decision, shall have no legal effect against pledge creditors.

(4) If, within the term determined by the court these amounts have not been deposited, the court shall, upon proposal of the creditor to whom the payment relates, act in accordance with provisions on the distrainment on monetary claims, and shall specify to which pledge creditors individual claims pertain and in which amount.

14 Sale of Shares in the Ship

Article 924

If distrainment is carried out by the sale of shares in a ship, provisions of this Code concerning the sale of a ship shall apply, with the following differences:

1) The interception of a ship may only be permitted if distrainment has been demanded on shares which exceed half of the total value of the ship on which distrainment is being carried out or if the creditor who has proposed the distrainment provides credibility that a danger exists that without it the settlement of the claims could be forestalled or significantly aggravated,

2) if the distrainment is carried out on more than a half of shares in the ship subject to distrainment, the creditor may demand that the whole ship be sold and that his claim be settled only from the part of the purchase amount pertaining to the share of the distrainee,

3) any co-owner of the ship subject to distrainment shall be entitled before the commencement of the sale hearing to settle the claim of the distrainor together with subsidiary claims, and thus assume his rank,

4) under equal conditions the co-owners shall have priority in the adjudication of the ship subject to distrainment over other participants at the auction,

5) if several co-owners offer the same purchase terms, the court shall adjudicate the share subject to distrainment to the co-owners in equal parts.

15 Ruling on the Distribution of the Purchase Amount

Article 925

(1) The court shall decide on the settlement of creditors and other persons claiming the right to settlement by a ruling after the hearing for the distribution of the purchase amount, taking into

account the situation arising from the register of ships, the documents of the distrainment proceedings and the results of the hearing for the distribution of the purchase amount.
(2) In the ruling on the settlement of creditors the court shall decide on the objections raised during the proceedings by individual creditors and other participants, if the objections pertain to a legal issue.
(3) The court shall instruct the participant who has contested a claim to file a lawsuit within a specified period, if the decision depends on controversial facts, unless the person corroborates his contesting with a final ruling, public or private document having the value of a public document. If the person contesting the claim corroborates it with a final ruling, public or private document having the value of a public document, the court shall decide about it in the distrainment proceedings and when the facts on which the decision depends are not controversial.
(4) If the contestation is accepted, the court shall refer the person whose claim has been contested to initiate a lawsuit.
(5) If the person who has contested the claim provides credibility for the existence of reasons for the contestation, the court shall postpone the decision on the settlement of the party whose claim has been contested until the termination of a lawsuit. Exceptionally the court may condition the reaching of a the ruling on settlement and the settlement of that person, for a submission of a guarantee.
(6) The amount relating to the contested claim shall be deposited with a court or a public notary.
(7) If the person instructed to initiate a lawsuit does not prove within the specified time period that he has done so, it shall be deemed that the claim has not been contested or that the person has waived his request that his claim be settled in the distrainment proceedings.
(8) Provisions from Paragraph 5 of this Article shall not affect the right of the person who was referred to a lawsuit to initiate a lawsuit, after the termination of the distrainment proceedings, against the person whose claim he has contested or against the person who has contested his claim.
(9) Upon the proposal of the person whose claim has been contested, the court may condition the deferment of the decision on settlement and settlement of claims of that person for a submission of an adequate security for damages which that person might suffer due to the settlement deferment. If the person contesting the claim does not provide, within the specified time limit, an adequate guarantee, it shall be deemed that the claim has not been contested.
(10) The person whose claim has been contested is entitled to a compensation for damages suffered due to an unfounded contestation of claim, if this has been done solely for purposes of causing damages or preventing him from exercising and realizing his rights.
(11) The court shall deliver the ruling on settlement to all persons who must be summoned to the hearing for the distribution of the purchase amount (Article 908, Paragraph 2).

Article 926

A decision rendered in a lawsuit on the contested claim shall be final against the distrainee and all creditors.

Article 927

(1) When the ruling on the distribution of the purchase amount becomes final, the court shall hand over to individual creditors the amounts due in cash if no lawsuit or administrative proceedings in connection therewith are ongoing, or if the time period determined for filing a lawsuit or initiating administrative proceedings has expired without success.
(2) The court shall issue the necessary orders with regard to the amounts which by its order must be deposited with a bank as a savings deposit, unless the persons for whom these amounts and interests are intended decide otherwise by a mutual agreement.
(3) If the ruling on the distribution of the purchase amount cannot be executed due to a lawsuit or administrative proceedings in progress, the amount relating to this part of the ruling on the

distribution shall be deposited with a bank as a savings deposit until the decision on the distribution becomes final.

Title III
DISTRAINMENT FOR THE PURPOSE OF DELIVERING THE SHIP

Article 928

(1) In the distrainment proceedings for the purpose of delivering a ship which has been entered into a domestic register of ships, provisions of Articles 857, 863, and 864 of this Code shall apply accordingly.
(2) The proposal for rendering a ruling on distrainment by delivery of a ship shall contain data indicated in Article 854 of this Code, with the exception of the data referred to in Point 6) of that Article.
(3) The distrainment for the purpose of delivering a ship shall be governed in accordingly by provisions of the Distrainment Act regarding distrainment for the purpose of handing over movable property, unless otherwise specified by this Code.

Article 929

(1) The distrainment for the purpose of delivering a ship which is in possession of the distrainee shall be carried out by an official taking the ship from the distrainee and handing it over to the distrainor, with a receipt.
(2) The distrainment by delivery shall be carried out in accordance with provisions of Paragraph 1 of this Article even when the ship is in possession of a third person who agrees to the ship being handed over to a court's distrainor.
(3) If the third person does not agree to have the ship handed over to the court's distrainor, the distrainor may propose to the distrainment court that the claim of the distrainee against the third person for the delivery of the ship be transferred to him.

Article 930

The court shall notify the creditor whose claims have been secured by court mortgage on the ship and also those creditors about whom data exists in the documents pertaining to the ship delivery.

Article 931

If the distrainment by means of a delivery of the ship is carried out on a ship of foreign nationality, the court shall, instead of acting according to provisions of Article 857 of this Code, undertake what is necessary to notify the foreign authority which keeps the register of ships in which the foreign ship on which distrainment is being carried out has been entered, of the initiated proceedings for the delivery of the ship, unless otherwise provided for by an international agreement.

Title IV
SECURITY

1 Security by Establishing Compulsory Court Mortgage

Article 932

(1) Based on a distrainable document establishing a monetary claim, the transferee is entitled to request that the claim be secured by establishing compulsory courts mortgage on a ship of the transferor.

(2) Security from Paragraph 1 of this Article is subject to the appropriate application of the Distrainment Act provisions pertaining to distrainment on security by a compulsory establishment of lien on real estate, unless otherwise regulated by this Code.

Article 933

(1) The compulsory court mortgage referred to in Article 932 of this Code on ships registered

in the register of ships is established by a recording of mortgage.

(2) The compulsory court mortgage referred to in Article 932 of this Code on ships not registered in the register of ships is established by taking the inventory of the ship for the purpose of confiscation.

(3) The compulsory court mortgage by means of the inventory from Paragraph 2 of this Article shall be registered in a temporary certificate of registration.

Article 934

(1) The enforceability of a claim in favour of which the compulsory court mortgage has been registered must be entered into the register of ships in which the compulsory court mortgage has been registered.

(2) If compulsory court mortgage has already been recorded for a claim or only preliminarily noted, the court shall decide to have the enforceability of the claim registered into the register of ships.

(3) The enforceability of a claim for ships not registered in the register of ships shall be entered into the ship inventory.

(4) Provisions of Article 857, Paragraph 1 of this Code shall apply to the completed recording or noting of the ship inventory.

Article 935

Provisions of Article 857 of this Code on submitting proposals for conducting the sale procedure shall also apply in accordingly to the proceedings establishing the compulsory court mortgage.

Article 936

The court may order that enforceability of a claim for ships not registered in the register of ships, in addition to their registry in the ship inventory in accordance with Article 934, Paragraph 3 of this Code be also entered in the temporary certificate of registration.

Article 937

(1) The ship inventory can only be taken if the ship is in possession or co-possession of the transferor.

(2) If the court conducting distrainment proceedings has no knowledge of the above, and the documents filed do not indicate its likelihood, the court shall, before ordering that an inventory be taken, hear the transferor on the matter.

Article 938

(1) The court shall inform the transferor about the ordered inventory, with the information about the date and location of its listing.

(2) The ship inventory shall be taken on the spot by entering the description of inventory into the records.

(3) If during the inventory taking a document is found on which the transferor’s ownership right is based or by which it is being proved, the court shall indicate on the document that inventory has been taken. Once the compulsory court mortgage on the ship subject to distrainment has expired, the court shall indicate this on the document.

(4) The court shall inform the parties about the inventory taken.

Article 939

Until it has been established that the inventory taking has been incorrect, security on the same ship in favour of another claim of the same or another transferee, for which the establishment

of a compulsory court mortgage on the same ship shall be later requested, shall not be conducted by a new inventory taking, but this subsequent security shall be conducted only by noting he inventory taking of the ship in the existing records.

Article 940

An appeal against the decision granting security by establishing compulsory court mortgage shall not delay the enforceability of the decision.

2 Security by Previous Distrainment

Article 941

In order to secure a nonmonetary claim which cannot be secured by a preliminary note in a public book, the court may, on the basis of a domestic ruling rendered in a civil lawsuit, order preliminary distrainment, if the distrainor provides credibility for the danger that the delay of distrainment until such time when the ruling becomes distrainable would forestall or significantly aggravate distrainment, and if he deposits a guarantee for damages which the distrainee might suffer as a result of such distrainment.

Article 942

(1) Prior to deciding on the proposal of distrainor the court shall schedule a hearing to discuss the proposal and security.

(2) If the parties fail to reach an agreement, the court shall, in case it accepts the proposal for distrainment, determine the amount of guarantee at its discretion and the deadline by which it has to be deposited. Distrainment cannot begin until the guarantee has been deposited.

(3) If the guarantee has not been deposited by a specified deadline, the court shall discontinue distrainment.

(4) The court may order distrainment, determine the amount of guarantee and start distrainment as soon as the guarantee has been deposited, if so required by special circumstances of the case, even before it gives an opportunity to the distrainee to state his opinion on the proposal.

(5) At the request of the distrainee who provides credibility that as a result of distrainment he would suffer irreparable or hardly reparable damages, the court may reject the proposal for distrainment or make the rejection conditional for an adequate guarantee that has to be deposited by a certain deadline. If the distrainee fails to deposit the guarantee by the specified deadline, the court shall issue a decision on distrainment.

(6) As regards the objection of the distrainee who was not permitted give his opinion about the proposal of the distrainor, the court may discontinue distrainment if it would cause irreparable or hardly reparable damages to the distrainee, or it can make the discontinuation conditional for the guarantee that has to be deposited within specified time period. If the distrainee fails to deposit the guarantee within the time specified, it shall be deemed that he has waived his objection.

3 Security by Preliminary Measures

Article 943

(1) A preliminary measure shall be ordered to secure a monetary claim on the basis of:

1) a decision of a domestic court or an administrative authority that has not yet become distrainable,

2) a settlement reached before the domestic court or an administrative authority if the claim established in the settlement is not yet due,

3) a domestic notarial document if the claim established in the settlement is not yet due.

prijevod: Jasenka Težak Štefanić

(2) On the basis of documents stated in Paragraph 1 of this Article the court shall order the preliminary measure if the transferee provides credibility of the danger that the settlement of claim would be forestalled or significantly aggravated without this security.

Article 944

(1) It shall be deemed that the danger from provisions of Article 943 of this Code exists if the preliminary measure has been proposed on the basis of:

1) a payment order or a decision on distrainment based on a trustworthy document against which a timely objection has been submitted,

2) a judgement rendered in criminal proceedings regarding a property claim, in the case of which it is permitted to renew criminal proceedings,

3) decision that has to be distrained abroad,

4) a judgement based on admission against which an appeal has been filed,

5) a settlement from Article 943, Paragraph 1, Point 2) of this Code that is being contested as prescribed by law,

6) a notarial document from Article 943, Paragraph 1, Point 3) of this Code that is being contested as prescribed by law.

(2) In the cases from Points 4 and 5 of Paragraph 1 of this Article, the court may, upon proposal of the transferor, make the preliminary measure conditional for security that has to be deposited by the transferee for damages which the transferor might suffer as a result of its ordering.

Article 945

(1) Security by preliminary measure for claim instalments not yet due on the basis of legal support, claims based on damages for lost support due to the death of support provider and claims based on damages for impaired health or reduced or lost working ability shall only be ordered for instalments that will become due in one year.

(2) In cases from Paragraph 1 of this Article, it is assumed that the danger exists if distrainment proceedings to settle a due instalment were already held against the transferor or if such distrainment had been proposed.

Article 946

(1) The court may order the following as preliminary measures:

1) preliminary noting of lien on the ship or the ship under construction belonging to the transferor or on the right registered on the ship or the ship under construction,

2) confiscation of the ship or the ship under construction which has not been registered in the register of ships, or ships under construction in accordance with rules under which distrainment is carried out to settle a monetary claim on those distrainment objects,

3) confiscation of cargo on the transferor’s ship.

(2) The court may order a temporary measure along with the preliminary measure, if the requirements for that, anticipated by this Code, have been met.

(3) By implementing the preliminary measure, the transferee shall acquire a lien on the subject of security.

Article 947

(1) The court shall order the sale of confiscated cargo that is highly perishable or if there is a risk that the price of the cargo might considerably drop.

(2) The sale of confiscated cargo shall be carried out in accordance with provisions of the Distrainment Act regarding distrainment referring to movables.

prijevod: Jasenka Težak Štefanić

(3) The amount received by the sale of cargo shall be deposited at the court until the preliminary measure has been discontinued or until the transferee proposes distrainment, and no longer than 30 days after the claim has become distrainable. Other benefits obtained by the settlement of claim shall be deposited at the court, if possible, or their storage shall be ordered in another way until the preliminary measure has been discontinued, or until the transferee proposes distrainment, but for the period of no longer than 30 days after the claim has become distrainable.

Article 948

(1) The decision ordering the preliminary measure must specify, among other things, the amount of claim being secured, together with interest charges and expenses, the security measure and the period of time for which it has been ordered.

(2) The period of time for which the preliminary measure is ordered can last no longer than 15 days after the conditions for distrainment have been met.

(3) If the period of time from Paragraph 1 of this Article expires before the document on the basis of which the preliminary measure has been ordered becomes distrainable, the court shall, upon proposal of the transferee, submitted to the court before the expiry of the term for which the measure has been ordered, extend the period of time provided that the circumstances under which the measure was ordered have not changed.

(4) The decision ordering the preliminary measure must contain an explanation.

Article 949

(1) The court shall, upon proposal of the transferor, discontinue the proceedings and cancel the measures undertaken:

1) if the transferee deposits the due amount of claim which is being secured, with interest and expenses with the court,

2) if the transferee provides credibility that at the time when the decision ordering the preliminary measure was issued, the claim had already been settled or sufficiently secured,

3) if it has been established by a final ruling that the claim never existed or that it has expired,

4) if the decision on the basis of which the preliminary measure has been ordered is cancelled as a result of a legal remedy, or if the court settlement or the document issued by the public notary on the basis of which the preliminary measure has been ordered is no longer in effect.

(2) The court shall discontinue the proceedings and cancel the measures conducted, if the conditions for distrainment have not been met within 15 days from the date when the period of time for which the preliminary measure were ordered has expired.

(3) In cases from Points 2), 3) and 4) of Paragraph 1 of this Article and Paragraph 2 of this Article, the transferee shall have the obligation to reimburse the transferor for the expenses incurred by ordering and execution of the preliminary measure.

(4) In the cases from Paragraph 3 of this Article, the transferor may request that the transferee compensates damages from the distrainment proceedings no later than within 30 days from the date when the proceedings have been terminated, following this he can do so by a lawsuit.

(5) Upon proposal of the transferor, the court shall establish the existence and amount of damages from Paragraph 4 of this Article by a decision in the distrainment proceedings.

(6) An appeal against the decision referred to in Paragraph 5 of this Article shall delay its distrainment.

Article 950

If the conditions for distrainment for the purpose of settling a secured claim are met before the

expiry of time for which the preliminary measure has been ordered, the court shall, upon proposal of the transferor, discontinue the proceedings and cancel the measures conducted if the transferee fails to submit a proposal for distrainment within 15 days from the date those conditions have been met.

4 Temporary Measures

Article 951

(1) Prior to the initiating, or in the course of legal, distrainment or administrative proceedings, the court may, for the purpose of securing the monetary claim of the transferee, order upon proposal of the transferee any temporary measure whereby the purpose of such security is achieved, in particular the prohibition of the alienation or another kind of disposal of the ship, custody and interception of the ship, under conditions specified by the Distrainment Act, unless otherwise determined by provisions of this Code.

(2) Temporary measures for securing nonmonetary claims of the transferee may be ordered by the court under conditions specified by the Distrainment Act, unless otherwise determined by provisions of this Code.

Article 952

The temporary measure of intercepting a ship shall be implemented on the basis of prohibiting a ship's departure from a port.

Article 953

(1) Temporary interception of the ship may only be ordered for the claims resulting from:

1) damages caused by the collision of the ship whose interception is requested or damages caused by this ship in any other way,

2) death or personal injury caused by the ship whose interception is requested or caused in connection with the employment of that ship,

3) salvage,

4) contract on the employment of a ship whose interception is requested,

5) general average,

6) towing,

7) pilotage,

8) supply of the ship whose interception is requested for the purpose of its maintenance or employment,

9) construction, alteration, repair, equipping or docking of the ship whose interception is requested,

10) labour-related rights of the crew,

11) expenditures related to the ship incurred by the captain, shipper, charterer or an agent or the owner of the ship or the ship operator,

12) mediation fees or agency awards owed in relation to the ship.

(2) In addition to cases stated in Paragraph 1 of this Article, the temporary interception of the ship can also be ordered for the purpose of realising maritime liens or mortgages on the ship or securities similar to mortgage.

(3) Provisions on the limitation of the temporary interception of a ship solely for claims referred to in Paragraphs 1 and 2 of this Article shall apply to foreign ships only if reciprocity exists between the state whose flag the ship flies and the Republic of Croatia.

Article 954

prijevod: Jasenka Težak Štefanić

(1) If the interception is requested for the purpose of settling the claim from Article 953, Paragraph 1 of this Code, any ship may be intercepted that is owned by a personal debtor at the time when the proposal is submitted.

(2) The personal debtor, according to Paragraph 1 of this Article, shall be considered to be a person who, in accordance with provisions of the applicable law, is responsible for the claim on account of which the interception of the ship is requested, and who was, at the time when the claim has arisen, the owner, operator or charterer of the ship to which the claim is related.

(3) For the purpose of realising the maritime lien or mortgage on the ship or securities of a foreign law similar to a mortgage, as well as for the purpose of settling claims related to the ownership over the ship, only the ship to which the lien, mortgage or the claim refers can be intercepted.

(4) If the interception is requested for the purpose of realising the maritime lien or mortgage, or security of a foreign law similar to a mortgage, regardless of the fact whether the ship was owned by the personal debtor at the time when the proposal was submitted, this ship may be intercepted as long as it is burdened by this maritime lien, or a mortgage or security of a foreign law similar to mortgage.

Article 955

(1) If temporary measures are ordered to secure monetary claims, the court shall release the ship from interception or custody if guarantees have been provided that are acceptable to the transferee, or when the transferee does not accept the guarantees offered, the court shall determine the sufficient guarantee to cover the total amount of claims for which the interception has been requested, including the claims based on the costs of the proceedings and interest.

(2) A guarantee may be offered in the form of a cash deposit, a bank guarantee, or a guarantee of the ship operator's liability by the insurer or by another insurer, or another property value.

(3) If claims are involved for which the transferor may limit his liability, the amount of the security indicated in Paragraph 1 of this Article need not be higher than the amount of the limited liability.

(4) When one of the courts in the territory of the Republic of Croatia releases a ship from interception, on the basis of provisions from Paragraph 1 of this Article, no other court in the territory of the Republic of Croatia may order the interception of either this ship or of any other ship for the same claim and for the same transferee, provided that the given guarantees are still available and transferable in favour of the transferee.

Article 956

The court shall not order the interception of a ship, and shall cancel an already ordered interception, if the transferor proves that he has provided in another state an adequate guarantee for the same claim, or to the same transferee, on condition that:

1) the guarantee meets the requirements stated in Article 955, Paragraph 1 of this Code,

2) the state on whose territory the guarantee has been issued treats the guarantees deposited equally as the Republic of Croatia.

Article 957

Providing security shall not imply the recognition of liability for claims for which security has been issued, nor waiving the possibility of a limitation of liability.

Article 958

(1) In a ruling ordering a temporary measure the court shall specify the time of its duration.

prijevod: Jasenka Težak Štefanić

(2) If a temporary measure has been ordered before legal, distrainment or administrative proceedings have been initiated, the transferee is bound to prove within 15 days that her has initiated legal, distrainment or administrative proceedings.

(3) If the transferee fails to prove that he has initiated legal, distrainment or administrative proceedings within the period of time referred to in Paragraph 2 of this Article, the court shall upon proposal of the transferor cancel the temporary measure.

(4) If the period of time referred to in Paragraph 1 of this Article expires before the conditions for distrainment or security by the recording or preliminary noting of lien have been met, the court shall, upon proposal of the transferee, extend the time of its duration, provided that circumstances under which the measure was ordered have not changed.

(5) If the period of time referred to in Paragraph 1 of this Article has expired and the conditions from Paragraph 4 of this Article for the extension of the ordered temporary measure have not been met, the court shall, upon proposal of the transferor discontinue security and cancel the measures conducted.

Article 959

The security shall be discontinued and the ordered temporary measure cancelled if any of the assumptions from Article 949, Paragraph 1, Points 1) – 3) of this Code have been met.

Article 960

(1) The costs of maintaining the ship and the crew during the time of the ship's interception shall be borne by the owner of the ship or the ship operator.

(2) If the funds for the maintenance of the crew are not sufficient, the court shall order the transferee to advance the amount necessary for the maintenance of the crew.

(3) The cost of custody of the ship shall be advanced by the transferee.

(4) Provisions of Paragraphs 1 and 3 of this Article shall not affect the obligation of the final bearing of these costs.

Article 961

The temporary measure of interception of the ship shall not affect the rights and duties of the parties arising from a contract on the transport of goods or passengers.

Article 962

When the court orders a temporary measure on the ship, provisions of Article 860 of this Code shall apply accordingly and without delay regarding the nature of the measure ordered.

Article 963

(1) When the court orders the temporary measure of prohibiting the alienation or disposal of the ship, it shall concurrently order that a notice thereof be entered into the register of ships in which the ship has been registered.

(2) When the court cancels, by a final ruling, the temporary measure referred to in Paragraph 1 of this Article, or when this measure expires by law, the court shall order the deletion of the notice referred to in Paragraph 1 of this Article.

Article 964

When the court has ordered a temporary measure on the ship under a foreign flag, the court shall, upon proposal of the transferee and at his expense, inform the competent foreign authority about the measure and the cancellation of the same measure.

Article 965

(1) In order to secure monetary claims and nonmonetary claims of the transferee against the person authorised to dispose of the cargo on board a ship, the court may allow the temporary

measure by ordering the unloading of the cargo from the ship and its storage in a public warehouse or another suitable place provided that the transferee pays to the ship operator the entire stipulated freight which has not yet been paid and compensates him for all the expenses he has incurred, which have not been included in the freight.

(2) If the delivery of the cargo on the basis of Paragraph 1 of this Article is requested to take place in a port in which the cargo, according to the contract on the transport of goods, need not have been delivered, the court shall allow the temporary measure from Paragraph 1 of this Article only on condition that the cargo be unloaded without endangering the safety of the ship and other cargo, that the unloading does not cause any major delay in the arrival of the ship or disturbance in the navigation schedule, that this does not cause damages to other persons who are authorised to dispose of the cargo, and that the unloading is not contrary to other significant reasons.

Part Ten
THE APPLICABLE LAW AND COURT JURISDICTION OF THE REPUBLIC OF CROATIA

Title I
COMMON PROVISION

Article 966

Provisions of this part of this Code shall apply to maritime navigation relations.

Title II
THE APPLICABLE LAW AND EXCLUSIVE JURISDICTION OF COURTS IN THE REPUBLIC OF CROATIA FOR RELATIONS OF INTERNATIONAL CHARACTER (ELEMENT)

Article 967

Provisions of this Title of the Code shall apply to any maritime craft considered to be a ship according to Croatian law, as well as to any maritime craft considered to be a ship according to laws of the country of its nationality.

Article 968

(1) Reference to the applicable foreign law shall mean reference to its substantive provisions with the exclusion of its conflicting provisions.

(2) When the conflicting provisions from this Title of the Code refer to the application of the law of the country of the ship's nationality, and this law allows that the ship temporarily flies the flag of another state in which the chartering register is kept, the law of the state whose flag the ship temporarily flies shall apply to the dispute if this has been prescribed by the law of the state of the ship's nationality.

Article 969

(1) According to the law of the state of the ship's nationality the following shall be assessed:

1) duties and rights of the ship captain with regard to ship management and the establishment of the rights and obligations of the ship owner or the ship operator,

2) proprietary rights on the ship,

3) legal consequences of events on the ship to which the law of the place where the event has occurred has to apply.

(2) Provisions of Paragraph 1, Point 3) of this Article shall apply to events that have occurred on foreign ships in the territory of the Republic of Croatia.

Article 970

prijevod: Jasenka Težak Štefanić

Croatian law shall apply to the ownership rights and proprietary rights to the ship under construction that is being constructed in the Republic of Croatia.

Article 971

(1) The law chosen by the parties shall be applicable to civil law relations arising from the employment contracts of the crew.

(2) If the parties have not chosen the applicable law, the applicable law shall be the law of the state of the ship's nationality, unless circumstances refer to another law which is more closely related, factually or legally, to the disputed relations and the parties.

(3) The application of law from Paragraphs 1 and 2 of this Article does not exclude the application of coercive regulations of the law most closely related to the responsibility for death and personal injury of a crew member, if such regulations are more favourable for the crew member.

Article 972

(1) The law of the state of the ship's nationality shall apply to the limitation of liability of the ship operator or other natural or legal person considered as his equal pursuant to this Code.

(2) By way of derogation from provisions of Paragraph 1 of this Article, provisions of this Code shall apply when provisions concerning the limitation of liability are stricter than the regulations of the state of the ship's nationality.

Article 973

The law chosen by the parties shall apply to maritime navigation relations.

Article 974

Notwithstanding provisions of Article 973 of this Code, this Code shall apply to the contracts on the employment of ships:

1) regarding the carrier's liability for damages, shortage or loss of cargo, prescribed by provisions of this Code, whose application cannot be excluded by an agreement reached between the parties, if the port of embarkation or destination is in the Republic of Croatia,

2) if a passengers would be put in a more disadvantageous position by the application of another law than by the application of provisions of this Code.

Article 975

(1) If the law chosen by the parties to be applied to the contract on the employment of ships cannot apply to the entire contract or to any of relations arising from the contract, or if the parties have not decided in an express manner on the law that has to be applied, and their intention as to the application of a certain law cannot be established from the circumstances of the case either, then the law that is in the closest relation with the contract or contractual relations shall apply.

(2) If it is not possible to establish which law is most closely related to the contracts on the employment of ships, the following shall apply:

1) the law of the place where the contract has been concluded - for the appraisal of the main rights and obligations of the contracting parties,

2) the law of the state of the carrier's citizenship or nationality - if the contract on the transport of passengers or goods has been concluded on the basis of the carrier's general conditions established in advance,

3) provisions of this Code - to the contract on towing.

(3) In case from Paragraph 2 of this Article, the law of the place where individual activities were performed or where they had to be performed shall apply to the manner of performing

subsidiary rights and obligations of the contracting parties (the manner of loading and delivery of cargo, the calculation of lay time and demurrage, the freight payment procedure and the like).

Article 976

(1) Applicable to the compensation for damages inflicted by the collision of ships shall be:

1) the law of the state in whose territorial sea or internal waters the collision has taken place,

2) provisions of this Code – if the collision has occurred at open sea,

(2) By way of derogation from provisions of Paragraph 1 of this Article, applicable to the compensation for damages caused by the collision of ships shall be:

1) when all ships in collision are of the same nationality - the law of that state,

2) when the ships in collision are of different nationalities, but the law of those states is the same - the law of these states.

Article 977

By way of derogation from provisions of Article 976 of this Code pertaining to the application of foreign law for the compensation of damages caused by the collision of ships the following shall apply:

1) provisions of this Code – if all interested parties have the same citizenship or usual residence, or a seat in the Republic of Croatia,

2) Croatian law – if one of the ships in the collision was a Croatian warship or public ship.

Article 978

(1) If the law chosen as the applicable law by the parties to a contract on the salvage of property cannot be applied to the entire contract or any of the relations arising from this contract, or if the parties have not chosen in an express manner the law to be applied, and their intention concerning the application of a certain law cannot be established from the circumstances of the case, the law which is most closely related to the contract or contractual relations shall apply.

(2) If it cannot be established which law is most closely related to the contract on salvage, the law of the state in whose port the salvage was completed shall apply, or the law of the first port which the salvaged ship entered after the completed salvage.

(3) Provisions of this Code shall apply in all other cases.

Article 979

By way of derogation from provisions of Article 978 of this Code, the following shall apply:

1) provisions of this Code – if persons were rescued without concurrent salvage of property, if all persons are citizens of the Republic of Croatia, or if the ship that undertook the salvage or the ship that was salvaged, or if one of more ships involved was a Croatian warship or a Croatian public ship,

2) provisions of Article 639, Paragraphs 1 and 2, Articles 773–777, and Articles 781 and 783 of this Code,

3) provisions of this Code regulating the statute of limitations for claims, and provisions of this Code regarding the onset of the statute of limitations (Article 788),

4) the law of the state of the salvor ship nationality – to the distribution of the salvage reward between the ship owner or ship operator and the crew of the salvor ship.

Article 980

The law of the place where the shipyard is located shall apply to relations from the contract on

the construction, alteration or repair of the ship if the parties to those contracts or parts of those contracts have not chosen the law to be applied or if the chosen law cannot be applied entirely or in part.

Article 981

(1) The law chosen by the contracting parties shall apply to the contract on maritime insurance and relations arising from it. If the parties have not agreed on the applicable law, the law of insurer's seat shall apply.

(2) By way of derogation from provisions of Paragraph 1 of this Article, the Croatian law shall apply to relations from the contract on maritime insurance if all interested parties from that contract are citizens of the Republic of Croatia with permanent residence in the Republic of Croatia or domestic legal persons having their seat in the Republic of Croatia, and the secured objects in question are exposed to risks covered exclusively in the territory of the Republic of Croatia.

Article 982

Whether a right to direct claim exists shall be established in accordance with the law applicable to the main claim or in accordance with the law applicable to the contract on security.

Article 983

The form of a legal act in navigational relations shall be assessed in accordance with the law of the place where the act was performed, or where it has to be performed or in accordance with the law applicable to the navigational relations in its entirety.

Article 984

Provisions of this Code on salvage shall also apply accordingly to the salvage of property sunken outside the territorial sea and the internal waters of the Republic of Croatia, if the property is salvaged by a Croatian company, another Croatian legal person or a citizen of the Republic of Croatia.

Article 985

(1) In case of general average, if the law chosen by the parties cannot apply to any of the relations resulting from general average, or if the parties have failed to chose in an express manner the law that has to be applied, and their intention concerning the application of a certain law cannot be established from the circumstances of the case either, the law of the port where the last part of the cargo that was on board the ship has been unloaded at the time when the general average occurred.

(2) If all parties in the general average are citizens of the Republic of Croatia or Croatian legal persons, Croatian law shall apply in the cases from Paragraph 1 of this Article.

Article 986

If this Code does not contain provisions on the law applicable for certain relations from this part of this Code, provisions and principles of this Code, provisions and principles of other laws that regulate relations of international character, principles of the legal system of the Republic of Croatia and generally accepted principles of the international private law shall apply accordingly to those relations.

Article 987

The foreign law that should be applicable in accordance with provisions of this Code shall not apply if the sole reason for its application would be to avoid the application of the law of the Republic of Croatia.

prijevod: Jasenka Težak Štefanić

Article 988

A Croatian court shall have exclusive jurisdiction in the following cases:

1) disputes regarding rewards for the salvage of Croatian warships and Croatian public ships, the compensation of damages caused by collisions of ships, one of which is a Croatian warship or a Croatian public ship,

2) disputes from Articles 410, 411 and 412 of this Code which arise in the course of, and in relation to the proceedings limiting the liability of a ship operator conducted by a Croatian court (Article 414),

3) disputes arising in the course of, and in relation to court mortgage distrainment proceedings conducted on the ships by a Croatian court (Articles 844 to 847).

Part Eleven

MARITIME OFFENCES

Title I

COMMON PROVISIONS

Article 989

(1) A maritime offence is an offence against the regulations governing the relations in the marine and submarine areas of the Republic of Croatia or those over which Croatia has sovereign rights, their shores and ports, maritime objects belonging to Croatia and all maritime crafts navigating or staying in the Croatian marine and submarine areas in connection with the navigation safety, the human life and environment protection, as well as maritime traffic.

(2) The maritime offences proceedings shall be conducted according to the Offences Act.

Article 990

(1) Port authorities shall reach first instance decisions in cases of maritime offences.

(2) Offence proceedings from Paragraph 1 of this Article shall be conducted by the Council for Offences.

(3) Council for Offences referred to in Paragraph 2 of this Article may be appointed for the area of two or more port authorities.

Article 991

Appeals filed against rulings of the Council for Offences referred to in Article 990 of this Code shall be dealt with by the High Magistrate's Court.

Article 992

(1) The Council for Offences shall consist of the president and two members. The Council president and members may also have deputies.

(2) The president and members of the Council for Offences from Article 990 of this Code as well as their deputies shall be appointed from the ranks of port authority qualified experts or the Ministry by the Minister upon proposal of the harbour master.

(3) The president, or his deputy shall be a graduate lawyer who passed the bar examination.

(4) The Council for Offences shall be appointed for the term of two years.

(5) The Council president, its members and their deputies may be re-elected.

(6) The Council president and members may be relieved of duty prior to the expiry of the mentioned term.

Title II

OFFENCES

Article 993

prijevod: Jasenka Težak Štefanić

(1) The foreign legal person shall be fined for a maritime offence with HRK 10,000 to 500,000 HRK:

1) if a foreign merchant ship enters the internal waters without the intention of entering a port of the Republic of Croatia open to international maritime traffic, or a port where a shipyard is located for the purpose of repair, or if it fails to enter the internal waters by the usual shortest route (Article 8),

2) if a foreign ship, boat or yacht charges for the transportation of goods or persons between Croatian ports without the authorisation of the competent authority (Article 9),

3) if a foreign yacht or boat sails in the Croatian internal waters, and it has failed to enter a port and fulfil the tasks from Article 12 of this Code, or if it sails without fulfilling the conditions laid down in a special regulation from Article 12 of this Code,

4) if a foreign scientific research ship or a foreign fishing ship enters the internal waters with the intention of sailing into a Croatian port without the authorisation of a competent authority (Article 10),

5) if a foreign maritime craft takes refuge in Croatian internal waters due to *force majeure* or distress at sea failing to inform the port authority about it, or port authority branch office (Article 17),

6) if a foreign fishing ship catches fish or fails to take the prescribed navigable waterway during the passage through the Croatian internal waters or territorial sea, or if it sails during the passage at the speed lower than six knots, or if it stops and drops anchor in the Croatian internal waters or territorial sea during the passage when this coming to a halt and anchoring has not been caused by *force majeure* or distress at sea, or when it does not have visibly displayed marks of a fishing ship (Article 25, Paragraph 2),

7) if a foreign ship sails in the security zone around facilities and equipment for research and exploitation of natural and other resources of the exclusive economic zone or the continental shelf thorough which the navigation has been prohibited (Article 37),

8) if it carries out research, explorations, takes photographs and measurements of the sea, seafloor or seabed of the internal waters, territorial sea, continental shelf, or if it carries out scientific research of the Croatian exclusive economic zone without the authorisation of a competent authority (Articles 13, 31, 40 and 44).

(2) The owner and operator of a yacht or boat that charges for the transport of persons by a yacht or boat shall be fined with HRK 10,000 to 500,000 as he acts contrary to provisions of Article 9, Paragraph 4 of this Code.

(3) The person in the foreign legal entity responsible for maritime offence from Paragraphs 1 and 2 of this Article shall be fined with HRK 3,000 to 15,000.

(4) The captain or a crew member acting in his place or a person who operates the boat or yacht, shall be fined with HRK 3,000 to 10,000 for the maritime offence from Paragraphs 1 and 2 of this Article.

Article 994

(1) A legal person shall be fined for a maritime offence with HRK 5,000 to 50,000 HRK if his ship enters the prohibited zone in the internal waters, or sails through the prohibited zone in the internal waters thus acting contrary to the terms prescribed (Article 16).

(2) The person in the foreign legal entity responsible for activities from Paragraph 1 of this Article shall be fined for a maritime offence with HRK 1,000 to 5,000.

(3) The captain of a maritime craft or a crew member who is acting in his place or a person operating the boat or yacht shall be fined with HRK 1,000 to 5,000 HRK for the activities

from Paragraph 1 of this Article.

Article 995

(1) The ship captain or a crew member who is acting in his place shall be fined for a maritime offence with HRK 2,000 to 15,000 HRK:

1) if he disregards the order of the port authority to leave port to render assistance to the ship on fire or in distress of any kind (Article 63),

2) if he acts contrary to provisions of Article 64 of this Code.

(2) A person operating the boat or yacht shall be fined with HRK 1,000 to 10,000 HRK for a maritime offence from Paragraph 1, Points 1) and 2) of this Article.

Article 996

(1) The captain of a ship, boat or yacht who contrary to the provision of Article 764, Paragraph 1 of this Code fails to render assistance to persons whose lives were in peril at sea, despite the non-existence of circumstances relieving him from such an obligation (Article 765) shall be fined with HRK 2,000 to 15,000 HRK.

(2) The captain of a ship, boat or yacht who fails to act in accordance with provisions form Article 772 of this Code during the salvage operation shall be punished by a fine from Paragraph 1 of this Article.

Article 997

The captain of a ship, boat or yacht who contrary to provisions of Article 766 of this Code fails to undertake the salvage of a ship with which the ship under his command collided with shall be fined with HRK,000 to 15,000 HRK.

Article 998

(1) A legal person shall be fined for a maritime offence with HRK 5,000 to 250,000 HRK:

1) if he fails to act on an order of a competent port authority and remove a damaged, stranded or sunken maritime craft (Article 65),

2) if the inspection establishes that the ship is in an unseaworthy condition (Articles 76 and 166)

3) if he fails to maintain the ship and its equipment in accordance with Article 85 of this Code,

4) if he fails to submit the request for the revised tonnage measurement of a Croatian ship before the completion of works altering the gross or net tonnage of the ship, or fails to submit such a request following the arrival of the ship in the first Croatian port if the reconstruction work on the ship has been carried out abroad, and the tonnage measurement of the ship has not been carried out abroad in compliance with provisions of this Code (Article 93),

5) if he engages a person who does not possess a seaman book in the capacity of the ship captain (Article 137, Paragraph 1),

6) if the ship does not have a name and does not display the name of the port of registration, or if the technical maritime craft and floating facility have no mark and do not display the name of the port of registration, or when they show these marks without being entitled to do so, and if the name is not written in accordance with regulations adopted on the basis of this Code (Articles 183 and 184),

7) if he salvages a sunken objects contrary to the provision of Article 787 of this Code,

8) if he fails to take adequate measures or fails to take them within certain period of time or fails to complete the necessary works ordered by the decision of the inspection of the safety of navigation (Articles 172, 173, 174 and 175),

prijevod: Jasenka Težak Štefanić

9) if he fails to submit the request for the deletion of the ship within a legal period of time (Article 192, Paragraph 4),

10) if he engages in transportation in the public maritime traffic, or charters maritime crafts or engages in other economic activities at sea contrary to provisions of Article 48, Paragraph 1 of this Code,

11) if he fails to maintain safety management system in accordance with requirements from Technical Rules of the Croatian Ship Register (Paragraph 2 of Article 48),

12) if he fails to keep watch and perform duties on the ship as prescribed by a special regulation (Article 135).

(2) A person in the legal entity responsible for activities from Paragraph 1 of this Article shall be fined with HRK 3,000 to 15,000.

(3) A natural person responsible for activities from Paragraph 1 of this Article shall be fined with HRK 3,000 to HRK 15,000.

Article 999

The captain of a foreign nuclear ship or an officer replacing him shall be fined for a maritime offence with HRK 10,000 to 15,000 HRK if the ship enters a port without authorisation (Article 61).

Article 1000

The captain of a foreign ship or an officer replacing him or a person operating a foreign yacht or boat shall be fined for a maritime offence with HRK 1,000 to 15,000 HRK:

1) if he acts contrary to Article 66 of this Code,

2) if the pilotage is conducted in the Croatian internal waters and territorial sea without the Ministry authorisation (Article 69),

3) if the ship engages in cabotage towing without authorisation from the Minister (Article 641).

Article 1001

(1) The captain of the ship, boat or yacht or a member of the crew acting in his place shall be fined for a maritime offence with HRK 2,000 to HRK 15,000:

1) if the ship transporting more than 2,000 tons of oil does not have an insurance certificate or another financial security covering the liability for damages caused by oil pollution when it enters or leaves a Croatian port or when it loads or unloads oil (Article 62),

2) if it fails to take or fails to take within a certain period of time adequate measures ordered by a decision issued by the safety of navigation inspector (Articles 168, 169, 171, 176, and 177),

3) if a round-the-clock watch has not been organised on the ship that has its radio station, in accordance with regulations on radio communications (Article 55),

4) if the number of crew members on board is lower than prescribed and if they do now have adequate and valid certificates of qualifications and additional training (Article 130),

5) if he fails to operate the ship in person when the safety of the ship calls for it, and particularly when the ship enters or leaves a port, channel, river as well as in all other cases when the safety of the ship and navigation so requires (Article 149, Paragraph 2),

6) if, in case of an imminent danger of war or the beginning of state of war between the Republic of Croatia and another state, he fails to take all necessary measures with regard to the ship, persons and cargo on board (Article 155, Paragraphs 1 and 2),

7) if, in case of the beginning of war between other states, in which the Republic of Croatia is

prijevod: Jasenka Težak Štefanić

a neutral party, the ship happens to be in a port of one of the belligerent states or is heading towards it, or has to pass through the internal waters and territorial sea of a belligerent state and he fails to ask for instructions from the ship operator, and if this is not possible - from the competent Croatian bodies (Article 155, Paragraph 3),

8) if during the ship's voyage he fails to take the necessary measures against a crew member, passenger or another person on board who has committed a criminal act in order to prevent or mitigate the occurrence of detrimental consequences of the act and if he fails to call the perpetrator to account (Article 161, Paragraphs 1, 2 and 4),

9) if he fails to inform the competent port authority about the deficiencies as stipulated by Article 143, Paragraph 1, Point 2 (Article 143, Paragraph 2),

10) if he receives on board and assign duties to a person who does not have an adequate and valid certificate of qualifications or additional training (Article 131),

11) if he fails to release from duty a tired or sick person or a person under the influence of alcohol or psychoactive medications (Article 134),

12) if, during the navigation in the exclusive economic zone of the Republic of Croatia he fails to respect the generally adopted international regulations and standards and Croatian regulations on the reduction of sea and air pollution by ships and pollution caused by the sinking of waste (Article 41).

(2) The ship operator and the manager shall be fined for a maritime offence with HRK 5,000 to HRK 10,000 for a maritime offence from Paragraph 1, Points 10), 11) and 12).

(3) A responsible person of the ship operator shall be fined with HRK 1,000 to HRK 3,000 for a maritime offence from Paragraph 1, Points 10), 11) and 12).

(4) The commanding officer of an aircraft who fails to abide by generally accepted regulations and Croatian regulations on the reduction of sea and air pollution from air or by air while flying over the exclusive economic zone of the Republic of Croatia shall be fined with HRK 5,000 to HRK 10,000 for a maritime offence from Paragraph 1, Point 12) of this Article.

Article 1002

The captain and/or a crew member of a ship, boat or yacht who fails to fulfil his duty on the ship, boat or yacht in line with his obligations, navigation rules and other regulations and rules pertaining to safe navigation, protection of human life at sea and protection of the sea environment shall be fined for a maritime offence with HRK 1,000 to HRK 15,000.

Article 1003

(1) The captain of the vessel or a person replacing him shall be fined with HRK 1,000 to HRK 10,000 if the vessel coming from abroad establishes communication with other vessels, natural or legal persons on land before it receives permission for free communication with land from the competent bodies of the port (Article 66, Paragraph 1).

(2) The captain of a ship or yacht, or the skipper of a Croatian boat if the ship, boat or yacht does not fly the Croatian flag and does not display marks in the manner prescribed by this Code and provisions of Article 180 of this Code shall be fined as stipulated by Paragraph 1 of this Article.

(3) The captain of a foreign ship or yacht shall be fined as stipulated by Paragraph 1 of this Article if the ship does not fly its national flag as well as the Croatian flag while it is in the territorial sea and the internal waters of the Republic of Croatia, except when navigating in an innocent passage (Article 66, Paragraph 2).

Article 1004

The ship captain or an official acting in his place or a person operating a floating or fixed

offshore facility shall be fined for a maritime offence with HRK 3,000 to 15,000 HRK:

1) if he operates the ship in an unseaworthy condition (Article 76),

2) if he transports passengers contrary to provisions of Article 88 of this Code by a non-passenger ship,

3) if any of the ship documents or ship books from Articles 94 – 101 inclusive and Article 105 of this Code, or regulations adopted on the basis of this Code are missing from the ship and/or if data has not been entered into ship books in accordance with Article 94, Paragraph 2 of this Code,

4) if he fails to provide ship documents and at the request of authorised bodies (Article 96),

5) if he fails to conduct exercises with lifeboats, other rescue equipment and instruments for detecting, preventing and extinguishing fire in prescribed periods of time (Article 148, Paragraph 2),

6) if he fails to maintain in proper working order the hull, machinery, instruments and equipment, or if he fails maintain the safety of the ship's installations for the embarkation and disembarkation of passengers, the loading dangerous and other cargo, as well as the correct boarding, accommodations and disembarkation of passengers, dangerous and other cargo (Article 148, Paragraph 1),

7) if he is not on board during navigation (Article 148, Paragraph 3)

8) if he operates a floating or a fixed offshore facility that is unfit for use (Articles 102 and 103),

9) if prior to the voyage he fails to check the working order of the ship, quantities of supplies on board, whether the crew members are on board, and whether all necessary measures for safe travel have been undertaken (Article 148, Paragraph 4),

10) if he damages, removes or performs any other prohibited activity related to the arrest of the ship referred to in Article 171 of this Code,

11) if he fails to use port services or coastal pilotage when such pilotage is obligatory (Article 70).

Article 1005

A captain of the ship or a person replacing him shall be fined with HRK 1,000.00 to HRK 10,000.00 for a maritime offence:

1) if he accepts for a member of the crew a person without a seaman book or an embarkation permit (Article 137, Paragraph 1),

2) if he does not act in accordance with provisions of Article 151 of this Code,

3) if he fails to submit a report about an event which occurred during the journey on the ship, which threatens the safety of the ship, a towed or pushed ship or navigation safety, or about an extraordinary event which happened on the ship, the towed or pushed ship, to passengers, other persons or objects on the ship or the towed or pushed ship – together with an excerpt from the ship log book to the competent authority in the country or abroad (Article 152, Paragraphs 1, 2 and 3),

4) if he does not maintain in operational condition maritime navigation maps and publications (Article 148, Paragraph 1),

5) if he fails to inform a recognised organisation or corresponding bodies of maritime authorities about accidents or failures referred to in Article 154, Paragraph 1, Points 1) and 2) of this Code,

6) if he fails to draw up minutes about the fact of birth or death and receiving the last will statement in the prescribed manner and fails to submit it to the competent authority in the first

domestic port, and abroad – to the nearest diplomatic or consular office of the Republic of Croatia (Article 152 Paragraph 5),

7) if he fails to send by radio communications information about any imminent danger for navigation safety he comes across (Article 153),

8) if he fails to submit a report about a crime committed on the ship, while the ship is abroad, to the diplomatic or consular office of the Republic of Croatia in the country into whose first port, after the crime has been committed, the ship sails or if he fails to treat the perpetrator of the crime according to the instructions of the respective diplomatic or consular representative office (Article 161, Paragraph 3),

9) if he fails to report a wilful abandonment of the ship by a member of the crew – citizen of the Republic of Croatia abroad to the authority referred to in Article 162 of this Code,

10) if he fails to enter into the ship log book, within the prescribed term and in the prescribed manner, a description of the events, actions, and measures undertaken which he is required to enter into the ship log book (Article 152, Article 153, Paragraph 2, Article 158, Paragraph 3, Article 160, Paragraph 2, Article 161, Paragraph 5 and Article 162, Paragraph 3),

11) if he fails to enter into the ship log book the arguments for his failing to provide assistance to persons in peril at sea and undertake their salvation, or reasons for which he failed to undertake the salvaging of the ship after a collision (Article 767),

12) if he fails to inform the ship with which the ship he is in charge of collided, although he was able to, the name of the last port he departed from and the name of the port he is bound to (Article 756).

Article 1006

(1) A crew member of the ship, boat or yacht shall be fined with HRK 2,000.00 to HRK 15,000.00 for a maritime offence if he throws objects or substances which might interfere with, or threaten navigation safety or might cause pollution in a navigable waterway (Article 65, Paragraph 2).

(2) A crew member of the ship, yacht or boat shall be fined in the amount referred to in Paragraph 1 of this Article if he navigates the vessel under the influence of alcohol above the permitted level, drugs or other substances which change the state of consciousness (Article 134).

Article 1007

In addition to the fine prescribed for a maritime offence referred to in Articles 997, 1001, 1002 and 1004 of this Code for the captain of the ship and a crew member of the ship, or the person who operates the yacht or boat or a member of the crew of the yacht or boat, as a precautionary measure all or some of the certificates of qualifications or additional training or authorizations may be revoked for a period of two years.

Article 1008

(1) In addition to the fine prescribed for a maritime offence referred to in Article 993 Paragraph 1, Point 6) a precautionary measure of confiscating the ship, the catch and fishing tools and equipment used for fishery, or a catch of living resources on the seafloor, shall be declared, namely:

a) if with the same ship there has already been made the same offence for which a competent authority in the Republic of Croatia pronounced a fine or if the captain of the ship was fined for the same offence in the last five years,

b) if the fishing or catch of other living resources in the seabed or on the seafloor is performed by fishing tools and fishing equipment, or for catch of other living resources in the seabed and

prijevod: Jasenka Težak Štefanić

on the seafloor the use of which has been prohibited or limited by Croatian regulations,

c) if the fishing or catch of other living resources in the seabed or on the seabed is performed in a fishery reserve, or if he catches the species of fish or other living resources in the seabed or on the seafloor when fishing of those species has been prohibited,

d) if the ship captain or a crew member of the ship fails to carry out the order of the authorities of the Republic of Croatia in charge of intercepting the ship, actively resists the inspection authorities on the ship or if he causes danger for human life or property by other actions.

(2) In addition to the fine prescribed for a maritime offence referred to in Article 993 Paragraph 1, Point 2) and Article 993, Paragraph 2, a precautionary measure shall be pronounced of confiscating the maritime craft with which the offence had been committed regardless of who the owner of the maritime craft is.

(3) In order to ensure a presence in an offence procedure, or payment of a fine, the safety of navigation inspector or another person authorised for inspecting the safety of navigation may to a foreign citizen issue a measure of temporary passport confiscation, or that of another document in place of a passport, for no longer than three days.

Article 1009

(1) A legal person shall be fined with HRK 30,000 to HRK 500,000 for an offence:

1) if it explores or exploits natural or other resources of the exclusive economic zone or the continental shelf of the Republic of Croatia in an illegal manner (Article 44),

2) if contrary to conditions prescribed by this Code or a regulation adopted on the basis of this Code it explores or exploits natural or other resources in the exclusive economic zone or the continental shelf of the Republic of Croatia (Article 45),

3) if it fails to permanently mark the facilities or devices installed in the exclusive economic zone or the continental shelf of the Republic of Croatia, for the purpose of exploration or exploitation of natural or other resources in these zones, with specific beacons and other marks or if those facilities and devices have not been removed after being used or utilised for purposes for which they were built, or if it fails to provide the required data about them in a timely manner (Article 36),

4) if the facilities or devices for research or exploitation of natural and other resources in the exclusive economic zone or the continental shelf of the Republic of Croatia are placed in places at which they could prevent the usage of recognised international navigable waterways (Article 38),

5) if it performs research, testing, photography and measurements of the sea, the seabed and the seafloor of internal waters and territorial sea of the Republic of Croatia without an approval of the Ministry (Articles 13 and 31),

(2) A fine of HRK 5,000 to HRK 15,000 shall be imposed for actions referred to in Paragraph 1 of this Article on a natural person and the person responsible person in the legal person.

Article 1010

(1) A fine of HRK 5,000 to HRK 50,000 shall be imposed on a legal person for an offence:

1) if it fails to keep the data prescribed significant for the safety of navigation (Article 48, Point 3)),

2) if it fails to maintain the port in the condition which ensures safe navigation, landing and mooring of maritime crafts, as well as the embarkation or disembarkation of the passengers and cargo, fails to ensure the port cleaning or if it fails to perform other activities in line with Article 58 of this Code.

3) if it fails to submit for approval the technical documentation on the basis of which a ship, yacht or boat is built or converted (Articles 78 and 113).

(2) A fine of HRK 1,000 to HRK 10,000 shall be imposed for a maritime offence on a natural person and the person responsible in the legal person for actions referred to in Paragraph 1 of this Article.

Article 1011

(1) A legal person – owner of a boat or yacht shall be fined for a maritime offence in the amount of HRK 5,000 to HRK 10,000 if:

1) he fails to submit the boat or yacht to the initial, regular or occasional inspection (Articles 114 – 117),

2) if the boat or the yacht are not seaworthy (Article 111),

3) if he failed to submit a request for registration of the boat into the boat ledger (Article 202),

4) if he failed to submit a request for deletion of the boat (Article 207, Paragraph 3),

5) if the boat does not have its sign properly marked (Article 206), or the water load line, the maximum permitted number of passengers that it may carry and other marks according to a special regulation or Technical Rules (Article 111),

6) if in the prescribed period he fails to report the change of seat or residence or area in which the boat is mostly kept or used (Article 202, Paragraphs 1 and 2)

(2) A fine of HRK 800 to HRK 5,000 shall be imposed for a maritime offence referred to in Paragraph 1 of this Article on a natural person – owner of the boat and the person responsible in the legal person.

(3) A fine referred to in Paragraph 2 of this Article shall be imposed on the person operating the boat or a yacht for a maritime offence referred to in Paragraph 1, Points 1) and 2) of this Article.

(4) For an offence referred to in Paragraph 1, Points 1) and 2) of this Article a natural person may be fined with HRK 500.

(5) For an offence referred to in Paragraph 1, Point 5) of this Article a natural person may be fined with HRK 200.

Article 1012

(1) A fine of HRK 300 to HRK 800 shall be imposed for a maritime offence on a person operating a boat or a yacht:

1) if he fails to report a maritime accident of the boat (Article 117),

2) if the documents referred to in Article 122 of this Code as well as credentials or a certificate of qualifications for operating a yacht or boat are not present on the boat or yacht.

(2) For an offence referred to in Paragraph 1, Point 2) of this Article a natural person may be fined with HRK 100.

Article 1013

(1) An organizer of a sports competition who acts in contradiction with Article 50, Paragraph 3 shall be fined with HRK 5,000 to HRK 20,000.

(2) A fine of HRK 5,000 to HRK 100,000 shall be imposed on a legal person which, as an investor, owner or user of facilities, funds or resources acts in contradiction with provisions referred to in Article 54 of this Code.

(3) A fine of HRK 5,000 to HRK 100,000 shall be imposed for a maritime offence on a legal person acting in contradiction with Article 56 of this Code.

(4) A fine of HRK 500 to HRK 15,000 shall be imposed for a maritime offence referred to in

prijevod: Jasenka Težak Štefanić

Paragraphs 1, 2 and 3 of this Article on a natural person and the person responsible in the legal person.

(5) The captain or person operating a maritime craft shall be fined with HRK 500 to HRK 15,000 for a maritime offence referred to in Paragraphs 2 and 3 of this Article.

Article 1014

(1) A fine of HRK 7,000 to HRK 15,000 shall be imposed for a maritime offence on a legal person – maritime agent acting in contradiction with provisions of regulations referred to in Article 683 of this Code.

(2) A fine of HRK 2,000 to HRK 8,000 shall be imposed on a natural person – maritime agent and the person responsible in the legal person for a maritime offence referred to in Paragraph 1 of this Article.

Article 1015

(1) A legal person performing pilotage without an approval of the Ministry (Articles 69 and 70, Paragraph 8) shall be fined for a maritime offence with HRK 10,000 to HRK 50,000.

(2) The person responsible in the legal person shall be fined with HRK 2,000 to HRK 5,000 for a maritime offence referred to in Paragraph 1 of this Article.

(3) A fine of HRK 5,000 to HRK 30,000 shall be imposed for a maritime offence on a legal person – pilot who in performing work does not act in compliance with provisions of regulations referred to in Article 70, Paragraph 9 of this Code.

(4) A fine of HRK 1,000 to HRK 5,000 shall be imposed for a maritime offence referred to in Paragraph 3 of this Article on the person responsible in the legal person.

(5) A fine of HRK 3,000 to HRK 10,000 shall be imposed for a maritime offence referred to in Paragraph 3 of this Article on a natural person - pilot.

Article 1016

(1) A fine of HRK 20,000 to HRK 200,000 shall be imposed for a maritime offence on a legal person acting in contradiction with provisions referred to in Article 56, Paragraph 3 of this Code.

(2) A fine of HRK 2,000 to HRK 10,000 shall be imposed for a maritime offence referred to in Paragraph 1 of this Article on the person responsible in the legal person.

(3) A fine of HRK 3,000 to HRK 15,000 shall be imposed for a maritime offence referred to in Paragraph 1 of this Article on the captain of the ship or the person operating the boat.

(4) A fine of HRK 2,000 to HRK 10,000 shall be imposed for a maritime offence referred to in Paragraph 1 of this Article on the crew member of the ship or boat responsible for the handling of hazardous cargo.

(5) A fine of HRK 3,000 to HRK 15,000 shall be imposed for a maritime offence referred to in Paragraph 1 of this Article to an expert in the port under whose supervision hazardous substances have been handled.

(6) A fine of HRK 2,000 to HRK 10,000 shall be imposed for a maritime offence referred to in Paragraph 1 of this Article on the person operating the craft.

(7) A fine of HRK 1,000 to HRK 3,000 shall be imposed for a maritime offence referred to in Paragraph 1 of this Article on a natural person who directly handles hazardous substances.

Article 1017

When a maritime offence referred to in Article 993, Paragraph 1, Point 5) and Point 7) and Articles 994, 995, 996, 999, 1000, 1001, 1003, 1004, 1006, 1008, 1011, 1013, 1014, 1015 and 1016 of this Code, results in an environmental accident, or an unexpected event or a type of

event caused by actions or influences which were not under supervision and have as a consequence resulted in danger to human life or health and are detrimental to the environment to a larger extent, a fine of HRK 300,000 to HRK 1,000,000 shall be imposed on a legal person, and a fine of HRK 50,000 to HRK 200,000 on the person responsible in the legal person and the natural person.

Part Twelve

AUTHORISATIONS, TRANSITIONAL AND FINAL PROVISIONS

Article 1018

(1) Provisions of Article 32, Article 33 Paragraph 1, Point a), Article 33, Paragraph 2, Articles 34, 40 and 41 of this Code shall apply as of the day of the commencement of the implementation of the Decision of the Croatian Parliament on the Extension of the Jurisdiction of the Republic of Croatia on the Adriatic Sea (»Official Gazette«, Nos. 157/03 and 77/04) whereby the environmental fishing zone of the Republic of Croatia was protected.

(2) Provisions of Article 33, Paragraph 1, Point b), Articles 35, 36, 37, 38 and 39 of this Code shall enter into force when the Croatian Parliament promulgates other contents of the exclusive economic zone in line with the Convention on the Law of the Sea.

Article 1019

(1) A special act shall regulate the conditions which the recognized organizations and authorized bodies shall meet, as well as the mode and procedure of issuing authorizations.

(2) Prior to adopting the act referred to in Paragraph 1 of this Article, activities of the recognised organisation and authorised body shall be performed by Croatian Ship Register, pursuant to the Croatian Ship Register Act.

(3) Prior to the accession of the Republic of Croatia to the European Union, provisions of the Croatian Ship Register shall apply to the procedure of the preparation, enactment, publication, and coming into force of the Technical Rules.

Article 1020

(1) The Government of the Republic of Croatia shall, within a year after this Code has come into force, pass the regulations on:

– ports open for international traffic (Article 7, Paragraph 4),

– the arrival and stay of foreign yachts and boats intended for leisure and sport in the internal waters and the territorial sea of the Republic of Croatia (Article 12, Paragraph 2),

– the requirements for entering a port, transit and stay of foreign war and scientific research ships in the internal waters and the territorial sea of the Republic of Croatia, requirements and mode of performing scientific and other research, testing, photographing and measurements of the sea, the seabed or the seafloor in the internal waters, the territorial sea, the continental shelf and the exclusive economic zone of the Republic of Croatia (Article 31, Paragraph 9).

(2) The Government of the Republic of Croatia shall, within two years after this Code has come into force, pass a Intervention Plan for the Unexpected Pollution of the Sea (Article 63, Paragraph 2).

Article 1021

(1) The Minister shall, within three years after this Code has come into force pass the following regulations:

– shelter locations, requirements shelter locations have to meet, as well as the requirements and the procedure for using shelter locations (Article 17, Paragraph 3),

– marks and the procedure of marking navigable waterways in the internal waters and the

territorial sea of the Republic of Croatia, (Article 51, Paragraph 4),

– application of international recommendations on tonnage measurement of ballast space on oil tankers with separate ballast tanks regarding the mode of calculating fees, charges and other fees in ports (Article 59, Paragraph 3),

– requirements a foreign maritime craft has to meet in order to be laid up in the internal waters of the Republic of Croatia (Article 67),

– pilotage (Article 70, Paragraphs 6, 7 and 8),

– the highest permitted fee for pilotage services (Article 72, Paragraph 3),

– requirements and mode of performing trial navigation (Article 83 Paragraph 4),

– the contents, forms, and mode of keeping documents, notes and records of maritime crafts (Article 101),

– the minimum number and vocational training of professional employees on floating and fixed offshore facilities (Article 102, Paragraph 3),

– the minimum number of crew members necessary for safe navigation (Article 130, Paragraph 2),

– requirements, issuance procedure, contents, forms and competence of port authorities pertaining to the issuance of seaman books and embarkation permits (Article 137, Paragraph 5),

– the procedure for performing meteorology services on ships (Article 143, Paragraph 4),

– procedures in case of birth or death, finding an abandoned newborn baby, receiving the last will statement and procedures concerning the property of persons deceased on board the ship (Article 152, Paragraph 6),

– the mode of flying the flags and indicating marks on ships and yachts (Article 180, Paragraph 4),

– the mode, requirements, and procedure of determining and marking names, signs and recognition marks of ships and yachts, as well as keeping records about the names of ships and yachts (Article 183, Paragraph 5),

– the highest permitted age of a ship which may be registered into a register of ships in the Republic of Croatia (Article 191, Paragraph 4),

– the mode of keeping, and entering data into registers of maritime crafts, performing EOP entry procedures, forms, and competences of port authorities regarding registration (Article 195, Paragraph 7),

– requirements for performing an activity of a maritime agent, as well as the rights and obligations of a maritime agent of this Code (Article 683).

(2) The Minister shall, within two years from the date this Code has come into force, pursuant to Article 24 of this Code, issue regulations on the prohibition of navigation in the Pelješac and Koločep channels and parts of Srednji kanal, the Murter Sea, Žirjanski channel and Maloston bay, on navigation in the passage through the port of Šibenik, in the Pašman straits, Mali Ždrelac and Vela Vrata passages and the area around the cape Marler, and about navigation along the Neretva and Zrmanja rivers.

(3) The Minister shall within a year after this Code has come into force issue regulations on the following:

– requirements that have to be met by a maritime craft, as well as a natural or legal person engaged in the activity of vessel chartering (Article 9, Paragraph 4),

– the amount of fee for performing cabotage with a foreign maritime craft (Article 9, Paragraph 5),

– the amount of fee for navigation safety paid by foreign yachts and boats (Article 12, Paragraph 3),

– requirements and the procedure for handling hazardous and other substances in ports, requirements and the procedure of loading and unloading hazardous and noxious substances, bulk and other cargo in ports, and the mode of preventing the spread of pollution (Article 56, Paragraph 4),

– requirements and mode of maintaining order in ports and other parts of the internal waters and the territorial sea of the Republic of Croatia (Article 56, Paragraph 2),

– categories of navigation for maritime crafts (Article 76 Paragraph 3),

– on boats and yachts, documents, notes and records of boats and yachts, as well as the mode of entry of boats into a boat ledger, mode of maintaining an EOP register, requirements and the mode of determining the mark and name of a boat, as well as the competence of port authorities for maintaining boat ledgers (Article 111, Paragraph 3, Article 123, and Article 202, Paragraph 3),

- requirements and mode of acquiring certificates on qualifications and additional qualifications of seamen and requirements for entrusting training activities or issuing authorisations to marine studies colleges for the education of sailors, as well as the amount of fees to conduct the training for sailors (Article 132, Paragraph 4),

– requirements and mode of watch keeping, and performing other activities on the ship, yacht or boat by which safe navigation and protection of the sea from pollution from ships has been ensured (Article 135, Paragraph 3),

– the mode and procedures of conducting the safety of navigation inspection, requirements that a safety of navigation inspector has to meet, and forms of identification cards of the safety of navigation inspectors (Articles 165, Paragraph 3 and 166, Paragraph 3).

(4) The Minister shall, within six months after this Code has come into force, establish the basic rates for calculating contributions to compulsory insurance (Article 128, Paragraph 1).

(5) The Minister shall ,within thirty days after this Code has come into force, pass a regulation on the criteria for establishing the fee and its amount for the registration of ships, yachts and boats (Article 188, Paragraph 4 and Article 203, Paragraph 4) of this Code.

Article 1022

The Minister of Health shall, with consent of the Minister, and within two years after this Code has come into force pass the following regulations:

– minimum requirements which a ship, its equipment and devices have to meet, for the purpose of providing adequate medical care to crew members, equipment and obligatory contents of a ship pharmacy, as well as the form and procedure of keeping the register on the content of the ship pharmacy (Article 76 Paragraph 4),

– minimum requirements that a boat or a yacht, its equipment and devices have to meet, for purpose of providing adequate medical care to the members of the crew, equipment and obligatory contents of a ship pharmacy, as well as the form and manner of keeping the ledger on the contents of a ship pharmacy for a boat or a yacht (Article 111, Paragraph 4),

– the procedure, requirements, scope and contents of establishing medical capabilities of crew members on ships (Article 131, Paragraph 6) of this Code.

Article 1023

The Minister shall, with the consent of the minister in charge of environmental protection, within two years after this Code has come into force, pass a regulation regarding:

– the protection of the maritime environment in the exclusive economic zone of the Republic

of Croatia (Article 41, Paragraph 3),

– requirements for the issuance of approval for positioning pipelines and maintenance of submarine cables and pipelines in the continental shelf of the Republic of Croatia (Article 45, Paragraph 5),

– requirements, competences and modes of conducting investigations of maritime accidents (Article 49, Paragraph 3),

– management and supervision of ballast waters (Article 64, Paragraph 3) of this Code.

Article 1024

The Minister of Defence shall, within two years after this Code has come into effect issue a regulation referred to in Article 762, Paragraph 2 of this Code.

Article 1025

Until t regulations referred to in Articles 1020, 1021, 1022, 1023 and 1024 of this Code have been issued, the following regulations shall remain in force:

1. Regulation on Arrival and Stay of Foreign Yachts and Boats Intended for Leisure or Sport in the Internal Waters and the Territorial Sea of the Republic of Croatia (»Official Gazette«, Nos. 16/01, 118/01 and 45/04),

2. Regulation on the Access, Passage and Stay of Foreign Warships and Scientific Research Ships in the Internal Waters and the Territorial Sea of the Republic of Croatia (»Official Gazette«, Nos. 19/95 and 21/03),

3. Rule Book on the Minimum Number of Crew Members for Safe Navigation Which Maritime Crafts of the Merchant Navy of the Republic of Croatia Must Have (»Official Gazette«, Nos. 8/02, 5/03 and 18/04),

4. Rule Book on Flying the Flags of the Merchant Navy of the Republic of Croatia and Placing Marks on Merchant Navy Vessels of the Republic of Croatia (»Official Gazette«, No. 51/97),

5. Rule Book on Marks on the Navigable Waterways in the Internal Waters and the Territorial Sea of the Republic of Croatia (»Official Gazette« No. 40/94),

6. Rule Book on the Professions and Certificates on Qualifications of Sailors on Merchant Navy Ships of the Republic of Croatia (»Official Gazette«, Nos. 8/02, 5/03 and 167/03),

7. Rule Book on Avoiding Collisions at Sea (»Official Gazette«, No. 17/96),

8. Rule Book on the Registration of Ships into Specific Registers, Data Entered into Page A of the Main Register of Ships, Document Files, Additional Records Kept alongside Registers of Ship, Forms of those Documents and Books and Competences of Port Authorities for the Registration of Maritime Crafts (»Official Gazette« Nos. 65/95 and 57/04),

9. Rule Book on the Contents, Forms and Procedures of Keeping Ship Documents and Registers of the Merchant Navy Ships (»Official Gazette« No. 53/91),

10. Rule Book on Determining the Names, Marks and Calls Signs of Ships and on Keeping a List of Names and Signs of the Ships (»Official Gazette«, No. 48/97),

11. Rule Book on Seaman Books, Authorizations for Embarkation and Competences of Port Authorities for Issuance (»Official Gazette«, Nos. 4/98 and 103/98),

12. Rule Book on Conducting Trial Navigations of Ships (»Official Gazette«, No. 53/91),

13. Rule Book on Investigating Distress at Sea (»Official Gazette«, No. 53/91),

14. Rule Book on Maritime Pilotage (»Official Gazette«, No. 17/95),

15. Rule Book on Conducting the Safety of Navigation Inspection (»Official Gazette«, Nos. 34/97, 41/99 and 27/00),

prijevod: Jasenka Težak Štefanić

16. Rule Book on Boats (»Official Gazette«, Nos. 81/94, 77/01 and 8/02),

17. Rule Book on Procedure Regarding Birth or Death, Finding an Abandoned Newborn Baby, Receiving the Last Will Statement and Procedures Regarding the Property of Persons Deceased on Ship (»Official Gazette«, No. 41/80),

18. Rule Book on the Minimum Number and Type of Devices and Equipment which Floating Facilities at Sea and in the Internal Waters Must Possess (»Official Gazette«, No. 11/70),

19. Rule Book on the Minimum Number of Experts on Floating Facilities at Sea and in the Internal Waters (»Official Gazette«, Nos. 11/70 and 15/70),

20. Rule Book on the Requirements and Procedures for Keeping Order in Ports and Other Parts of Internal Waters and the Territorial Sea of the Republic of Croatia, and Borders of Navigation of Ships and Boats Outside of Ports (»Official Gazette«, No. 108/95),

21. Rule Book on Handling Hazardous Substances, Requirements and Mode of Loading and Unloading of Hazardous Substances, Bulk and Other Cargo in Ports, and Mode of Prevention of Oil Leakage in Ports (»Official Gazette«, No. 2/82 and 55/85),

22. Rule Book on the Mode of Transportation of Hazardous Substances in Maritime Transport (»Official Gazette«, Nos. 79/96 and 76/02),

23. Rule Book on the Requirements for Conducting Archaeological Research on Cultural Monuments in the Seabed or the Seafloor of the Internal Waters and the Territorial Sea of the Republic of Croatia (»Official Gazette«, No. 94/98),

24. Rule Book on the Requirements for Conducting Research in Specially Protected Nature Areas in the Seabed and the Seafloor of the Internal Waters and the Territorial Sea of the Republic of Croatia (»Official Gazette«, No. 97/98),

25. Rule Book on the Conditions under which Foreign Legal and Natural Persons May Conduct Research, Exploration, Photographing and Measurement of the Sea, Seabed and/or Seafloor of the Internal Waters and the Territorial Sea of the Republic of Croatia (»Official Gazette«, No. 116/98),

26. Rule Book on Performing Activities and Watch Keeping by Crew Members on Merchant Navy Ships of the Republic of Croatia (»Official Gazette«, Nos. 91/98 and 5/03),

27. Rule Book on the Requirements for Performing Activities of Maritime Agents (»Official Gazette«, No. 17/96),

28. Rule Book on the Minimum Equipment and Contents of a Ship Pharmacy (»Official Gazette«, Nos. 28/95 and 71/96),

29. Rule Book on Performing Meteorological Services on Maritime Ships (»Official Gazette«, No. 96/96),

30. Order on the Categories of Navigation of Maritime Ships (»Official Gazette«, Nos. 6/97 and 44/01),

31. Order on the Navigation in the Passage into the Port of Šibenik, in the Pašman Straits, Mali Ždrelac and Vela Vrata Passages, Neretva and Zrmanja Rivers and the Prohibition of Navigation through the Pelješac and Koločep Channels and parts of Srednji kanal, the Sea of Murter and Žirjanski Channel (»Official Gazette«, No. 28/97 and 117/98),

32. Order on Establishing Restricted Zones in the Croatian Internal Waters (»Official Gazette«, No. 66/94),

33. Order on Navigation in the Territorial Sea and the Internal Waters of the Republic of Croatia (»Official Gazette«, No. 105/97 and 44/01),

34. Order on the Charter Licence, the Amount of Fee for the Safety of Navigation and Charter Fee Paid by Foreign Yachts and Boats for Leisure or Sport with the Charter License (»Official

Gazette«, No. 3/02 and 134/02),

35. Order on the Amount of Fee for the Safety of Navigation Paid by Foreign Yachts or Boats for Leisure or Sport and the Amount of Fee for Rotation of the Crew (»Official Gazette«, No. 3/02),

36. Order on the Amount of Fee for Pilotage Services in the Internal Waters in the Territorial Sea of the Republic of Croatia (»Official Gazette«, No. 32/00),

37. Instructions on the Procedure of Keeping Records of Floating Facilities, on the Forms for Keeping those Records and the Form of Certificate of Safety for Floating Facilities (»Official Gazette«, No. 12/70),

38. Intervention Plan for the Unexpected Pollution of the Sea in the Republic of Croatia (»Official Gazette«, No. 8/97).

Article 1026

The Rule Book on Performing Submarine Activities (»Official Gazette«, Nos. 47/99, 23/03, 28/03, 52/03 and 58/03) shall remain in force until a corresponding act has been adopted.

Article 1027

Once the regulations referred to in Article 76 Paragraph 3 of this Code have entered into force, provisions of the Medical Supervision of Crew Members on Maritime Ships and Inland Navigation Vessels Act (»Official Gazette«, No. 41/73, 31/82, 31/86, 47/89 and 26/93) cease to be valid in the section pertaining to the crew members of maritime ships.

Article 1028

Procedures commenced according to provisions of the Maritime Code (»Official Gazette«, Nos. 17/94, 74/94 and 43/96) and regulations issued pursuant to this Code, shall be completed according to provisions of these documents.

Documents issued on the basis of regulations referred to in Paragraph 1 of this Article shall remain in force at the latest until their expiration.

Unless otherwise provided by this Code for other relations which have occurred prior to the date this Code entered into effect, regulations referred to in Paragraph 1 of this Article shall apply.

Article 1029

With the adoption of the Coast Guard Act activities and tasks from this Code to be performed by the coast guard shall be established.

Article 1030

(1) Within six months since after this Code has come into force registers of yachts shall be established.

(2) Within six months after this Code has come into force the Croatian Ship Register shall adopt Technical Rules for Yachts and Boats.

(3) Within a year since the date of establishing the register of yachts, owners of boats for the transportation of passengers and boats for sports and leisure entered into boat ledgers, which pursuant to Article 5 Paragraph 1, Point 20) of this Code are considered to be yachts, shall request registration of such waterborne craft into a register of yachts.

(4) Within five years since the establishment of the register of yachts, owners of boats for the transportation of passengers and boats for sport and leisure entered into boats ledgers, which pursuant to Article 5 Paragraph 1 Point 20) of this Code are considered to be yachts shall request registration of such waterborne craft into a register of yachts.

(5) Within a year since the date of establishing the register of yachts, owners of ships -

yachts entered into registers of ships, which pursuant to Article 5 Paragraph 1 Point 20) of this Code are considered to be yachts, shall request registration of such waterborne craft into a register of yachts.

(6) The activity of chartering a vessel until the expiration of a charter license may be continued with a foreign yacht or boat for which, until this Code has come into force, approval for chartering has been issued for yachts and boats under a foreign flag in the territorial sea and internal waters of the Republic of Croatia (charter license) pursuant to a Regulation on the Requirements for the Arrival and Stay of Foreign Yachts and Boats for Sport and Leisure in the Internal Waters and the Territorial Sea of the Republic of Croatia (»Official Gazette«, Nos. 16/01, 118/01 and 45/04).

(7) Chartering activities in the internal waters and the territorial sea of the Republic of Croatia may continue for a foreign yacht or boat referred to in Paragraph 6 of this Article which on the date this Code has come into force has a valid charter license at the latest until 30 September 2005 provided that:

–the owner or ship operator of the waterborne craft is registered for performing the said activities in the Republic of Croatia,

- the owner of the vessel submits a request for registration into a Croatian register or ledger no later than the date his charter license expires, and provided that he has paid the registration fee,

– that the owner or the ship operator has obtained an Authorisation for Temporary Operation.

(8) The Authorisation for Temporary Operation shall be issued by the Ministry for a term not longer than 30 September 2005, provided that the vessel is seaworthy in accordance with national regulations of the country whose flag it flies. A fee the amount of which will be determined by the Minister shall be paid with the Authorisation. During the authorisation validity the waterborne craft may have a status of a temporary import.

(9) With the request for registration referred to in Paragraph 7 of this Article the owner of the waterborne craft shall attach:

– proof of ownership of the vessel,

– proof of deleting the vessel from the foreign register, if the waterborne craft has been registered in a foreign register,

– confirmation of the technical data for the waterborne craft with confirmation that the vessel is technically suitable for registration into Croatian register or ledger,

– decision about the name of the yacht,

– proof of a third party liability insurance,

– copy of the Authorisation referred to in Paragraph 8 of this Article.

(10) On the basis of the request for registration referred to in Paragraph 7 of this Article, the port authority or its branch office shall conduct preliminary registration.

(11) If the owner of the waterborne craft referred to in Paragraph 7 of this Article, upon the expiration of the Authorisation referred to in Paragraph 8 of this Article, fails to submit to the competent port authority or its branch office the proof of fulfilling the requirements referred to in Article 9, Paragraph 4 of this Code, as well as proof of the completed final customs clearance procedure and fulfilled tax obligations, the port authority or its branch office shall conduct the procedure of deleting the waterborne craft from the register or the ledger.

(12) Until the establishment of the register of yachts and the adoption of Technical Rules referred to in Paragraph 2 of this Article have been completed, provisions of the Rule Book on

prijevod: Jasenka Težak Štefanić

Boats shall apply accordingly for the establishment of seaworthiness of boats and yachts (»Official Gazette«, Nos. 8/94, 77/01 and 8/02) and the corresponding Technical Rules of the Croatian Ship Register, whereas provisions of this Code on the registration of ships shall apply to registration of yachts.

Article 1031

On the date this Code enters into force the Maritime Code (»Official Gazette« Nos. 17/94, 74/94 and 43/96), ceases to be valid, with the exception of provisions regarding the registration of ships which shall expire upon the establishment of the register of yachts.

Article 1032

This Act enters into force on the eighth day from the date of its publishing in the »Official Gazette«.

Classification: 342-01/04-01/04

In Zagreb, on 8 December 2004

CROATIAN PARLIAMENT
Speaker
of the Croatian Parliament
Vladimir Šeks, signed