

Comparative Analysis of the Labour Act Status of Seafarers in the Republic of Croatia and the Surrounding Countries of the Adriatic Sea

Tony Vuković¹, Ranka Petrinović¹, Ena Sirišćević²

The aim of this article is to present and compare the regulations concerning the specific labour act status of Croatian seafarers with those of seafarers in neighbouring countries that have access to the Adriatic Sea. These countries were part of the legal system of the former Socialist Federal Republic of Yugoslavia until the 1990s. The question of the professional and social status of seafarers is a specific and complex issue in Labour Act. Seafarers, as employees, have a distinct labour and social status compared to shore-based workers in many respects. To address this, the International Labour Organization (ILO) has adopted 68 instruments (conventions and recommendations) related to their labour status regulation. Today nearly all these ILO documents are consolidated in the 2006 *Maritime Labour Convention*, making it the most significant legislation concerning the work, life, and social rights of seafarers in international shipping. In this context, this paper examines and analyses Croatian national regulations governing labour and social status of seafarers. It also compares these regulations with those of the neighboring countries such as Slovenia, Montenegro, and Bosnia and Herzegovina, particularly in terms of the standards prescribed by *Maritime Labour Convention*.

KEY WORD

- ~ Labour status of seafarers,
- ~ Seafarers
- ~ Maritime Labour Convention
- ~ Croatia
- ~ Neighbouring countries
- ~ Montenegro
- ~ Bosnia and Herzegovina
- ~ Slovenia

¹ University of Split, Faculty of Maritime Studies, Split, Croatia

² City of Split, Department of City Property, Split, Croatia

email: tvukovic@pfst.hr

doi: 10.7225/toms.v13.n01.w12

Received: 12 Jan 2024 / Revised: 13 Jan 2024 / Accepted: 23 Feb 2024 / Published: 15 Mar 2024

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1. INTRODUCTION

Maritime transport is the most important mode of transport, as 80% of world trade is carried out by sea, and approximately 5% of the entire global economy is influenced by maritime freight.¹ The shipping industry, as a mode of transport and an economic sector, possesses many distinctive features, making shipping relationships extremely complex, requiring a high degree of specific legal regulation. Considering this fact, it is crucial to advocate for the standardisation of maritime law in order to enable equal legal framework and treatment across all legal systems regulating maritime matters. Institutions that contribute to this are international organisations that convene international conferences on maritime issues, where international conventions are adopted as instruments of unification. States that ratify them become parties to the convention and are obliged to harmonise their national legislation with its provisions.

The employment relationship serves as the primary mechanism through which employees exercise their rights related to employment. The most appropriate definition of the employment relationship is that of the International Labour Organisation, which defines it as a relationship between an employee and an employer for whom the employee performs certain tasks and receives remuneration in return, creating mutual rights and obligations between them.² Examining the definition and essential elements of the employment relationship makes it evident that seafarers, as a category of workers, differ significantly from their shore-based counterparts. For this reason, the regulation of their employment relationships cannot be categorised within the legal framework of the so-called classic employment relationship, but rather they have a special *sui generis status*.³

In addition to *the International Labour Organisation* (hereinafter: ILO), *the International Maritime Organisation* (hereinafter: IMO), whose normative activities extend to the safety of shipping and the protection of the marine environment, also plays an important role in regulating and governing the labour status of seafarers. In these aspects, the human factor is crucial, as is the ship's ability to navigate. As part of its normative work, the ILO has adopted most of the conventions and recommendations relating specifically to the work and status of seafarers, while the IMO is responsible for creating a globally accepted and applicable set of rules for the maritime sector. Both international organisations were involved in the drafting of *the Maritime Labour Convention* (hereinafter: MLC), which was a turning point for the regulation and improvement of the labour and social status of seafarers, which is why it is still referred to today as *the Seafarers' Charter*.⁴

The choice of countries (the Republic of Croatia, the Republic of Slovenia, Montenegro, and Bosnia and Herzegovina), in which the labour act status of seafarers has been analysed, is deliberate because they had many common historical moments, legal traditions, and cultures. After the Second World War, all the countries analysed were an integral part of the Socialist Federal Republic of Yugoslavia (hereinafter: SFRY). They gained independence in the early 1990s and were commonly referred to as *transition countries*. As of today, all of them are members of the ILO and the IMO. The Republic of Croatia and the Republic of Slovenia are full members of the European Union, while Montenegro and Bosnia and Herzegovina are in the process of accession. All of these countries are attracted, albeit with varying degrees of intensity, to the Adriatic and the economic sectors associated with the sea and shipping.

Following their independence, all four states initiated the development of independent legal systems. However, concerning legal relations in maritime transport, the legal systems continued to be based on the

1 www.ilo.org, accessed on June 22, 2023

2 Bilić, A., Perkušić, T., Ugovor o radu na određeno vrijeme kao modus implementacije fleksibilnosti na tržištu rada, *Mostariensia*, University of Mostar, y. 20, No. 1-2, Mostar, 2016, p. 212

3 M.Đ Učur, V. Smokvina, Problematika radnopravnog statusa pomorca i ribara u pomorskoj plovidbi u Republici Hrvatskoj s posebnim osvrtom na registraciju ugovora o radu, *Naše More* Vol. 62 No. 4, Dubrovnik 2015, p. 104

4 Petrinović, R., Lovrić, I., Novo pravo o pravu pomorca za slučaj napuštanja i repatrijacije, *Proceedings of 1st International Scientific Conference on Maritime Law - ISCML 2016*, Faculty of Law in Split, 2017, p. 281

previous regulations of the former state, the most important of which was *the Maritime and Inland Navigation Law* of 1977 which, among other things, regulated the labour relations of seafarers.

The Maritime and Inland Navigation Law remained in force in the Republic of Croatia until the adoption of *the Maritime Code* of 1994 (later replaced by the *Maritime Code* of 2004), and in Slovenia until the adoption of *the Maritime Code* in 2001. Both maritime codes are comprehensive codification works. Unlike *the Maritime and Inland Navigation Law*, they no longer regulate inland navigation and the status of maritime areas belonging to the states (as per international law, as outlined in the 1982 *UN Convention on the Law of the Sea*). Additionally, their laws of the sea have incorporated new solutions for maritime institutions, internationally regulated by recent international conventions ratified by the states. In this sense, following the adoption of the Croatian and Slovenian laws of the sea, numerous other amendments were made, mainly relating to the obligations of these countries towards the EU.

The Croatian *Maritime Code* of 2004, along with subsequent amendments, signifies further harmonisation of the Croatian legislation with international conventions and EU directives ratified after 1994. It also aligns terminology with other Croatian laws, particularly those serving as subsidiary sources for maritime law, aiming to foster a more favourable environment for the development of shipping and the nautical sector, enhance competitiveness, and improve the position of Croatian seafarers.

Montenegro continues to apply *the Maritime and Inland Navigation Law* from 1977 (amended in 1998), and in the area of private law it is still applied today, regulating maritime areas with special laws (*Law of the Sea*, 2007) and adopting laws on ports (*Law of Ports*, 2008 and 2012), yachts (*Law on Yachts*, 2007), and safety of navigation (*Law on Maritime Navigation Safety*, 2013 with amendments from 2014 and 2015).

In 1992, Bosnia and Herzegovina adopted *the Law on Maritime and Inland Navigation* and in 2005 *the Law on Inland and Maritime Navigation*, which prioritised inland navigation in view of its access to the sea. It regulated the safety of navigation, the status of vessels, and the supervision of inspections in inland and maritime navigation.

2. SPECIAL FEATURES OF THE LABOUR ACT STATUS OF SEAFARERS

The shipping industry is a significant part of the global economy with 50 thousand merchant ships and 1.9 million seafarers,⁵ handling more than 80% of world trade.⁶ It is a highly complex industry that operates under very different operational, legal, economic, social, political, and international conditions. Furthermore, any unexpected event or accident during shipping operations can have serious consequences for all those involved in the transport and production process, such as health and safety, loss of life, financial, environmental, legal, and reputational losses.⁷ To avoid or minimise these consequences, it is extremely important that ships are operated by trained and qualified seafarers. For this reason, seafarers can be considered a key factor in the functioning of the maritime industry.

Being a seafarer requires special skills and qualifications. Seafarers must be trained in navigation and ship management, ensuring safety at sea, managing cargo, and fulfilling many other aspects of maritime work. Historically, the term 'seafarer' has had various names and definitions. For instance, the term 'seaman'⁸ was used

⁵ It is important to note that this figure pertains only to seafarers employed on merchant ships and does not include seafarers on other types of vessels such as fishing, passenger, military, and similar ships.

⁶ BIMCO and ICS, 2021, BIMCO, ICS Seafarer Workforce Report: Global supply and demand for seafarers in 2021, Witherby Publishing Group Ltd. (2021)

⁷ Bilić, A., *Who Wants to Stay on Board? Industry 4.0 and Maritime Education*, University Proceedings – 4th International Scientific Conference on Maritime Law, *Suvremeni izazovi pomorske plovidbe*, Split, 2023

⁸ Today, the term "sailor" refers to the title of an unqualified, hierarchically lowest-ranking employee on deck.

for a long time in specialised literature for seafarers until the adoption of the *Social Security (Seafarers) Convention* in 1946 within the framework of the ILO. This convention marked the inaugural use of the term 'seafarer,' a designation that has since been incorporated into all ILO conventions.⁹

The generally accepted definition holds that a seafarer is any person employed on a ship, engaged in shipping, either as a ship's master or as a member of the ship's crew. The ILO adhered to this definition when it defined seafarers in the MLC as all persons working in any capacity on a ship to which the Convention applies.¹⁰ According to the MLC, both hotel staff on cruise ships and individuals engaging in casual labour on ships, referred to as flight crew, are classified as seafarers.

The employment relationship is decisive in determining the nature and scope of the employer's rights and obligations towards the employees.¹¹ The essential elements of the employment relationship include the subordination of the employee to the employer; the personal labour relationship between the employee and the employer; the performance of specific work by the employee for the employer, for which the employer is obliged to pay remuneration, and voluntary work.¹² The employment relationship of seafarers is a voluntary and agreed-upon arrangement regulated by laws, conventions, recommendations, collective agreements, and general laws.¹³ It involves the direct performance of work on the ship by the seafarer, who, as a crewmember, has committed to working for the shipowner for a specified period in return for remuneration.¹⁴ This relationship is established through the conclusion of an employment contract, which must be in writing, between the seafarer as an employee and the shipowner as an employer.

Seafarers represent a special category of employees, as their living and working conditions differ in many respects from the living and working conditions of employees in other economic activities carried out on land.¹⁵ The labour status of seafarers should guarantee their safety, the right to fair treatment, remuneration and working conditions in accordance with international standards and national regulations. Therefore the legal regulation of the labour status of seafarers is particularly important.¹⁶

The profession of seafarer offers a range of opportunities and benefits. In the course of their careers, seafarers have the opportunity to travel and work around the world, learning about different cultures, languages, and traditions. The shipping industry offers various opportunities for career development and advancement. The demand for seafarers is high, thereby representing a stable employment and a possibility of good earnings. Conversely, seafarers encounter numerous challenges due to their specific workplace, including unstable working hours (shift work, 24/7 availability on board, often leading to violations of annual and daily leave regulations), separation from family and friends, physically demanding work and working in different weather conditions and zones. These factors contribute to fatigue, exhaustion, and difficulties in maintaining a work-life balance, potentially impacting seafarers' health and personal lives in various ways. As a result, the average career span of a naval officer on merchant ships is approximately 12 years, as per the IMO. Officer cadets and those in non-nautical professions, such as cooks, waiters, mechanics, and electricians experience an even shorter active career, averaging around seven years.

⁹Vasili, M., Private armed guards as seafarers under the Maritime Labour Convention 2006, *The Journal of International Maritime Law*, 2017, p.41

¹⁰Pomorski glasnik, 2006, Maritime Labour Convention, art 5.1.3. para 10

¹¹Gotovac, V., Radno pravo za 21.stoljeće: mitovi o fleksibilizaciji, *Financijska teorija i praksa*, y 24, No.4, Zagreb 2003, p.423

¹²Ured Međunarodne organizacije rada, *The employment relationship*, 95th session, Geneva, 2006

¹³Jašarević, S., Radni odnos-tedencija u praksi i regulativi, *Proceedings of Faculty of Law in Novi Sad*, No. 3/2013, Novi Sad, 2013, p. 243

¹⁴Učur, M.Đ., Bartulović, Ž., Mornarska služba u srednjovjekovnim statutima i Nacionalni kolektivni ugovor za hrvatske pomorce na brodovima u međunarodnoj plovidbi, p. 906

¹⁵Rozić, I., Vuković, T., Božiković, N., Kolektivni ugovori kao izvor prava za reguliranje radnog statusa pomoraca u Republici Hrvatskoj, *Proceedings of Faculty of Law in Rijeka*, vol. 42, No.3, Rijeka 2021, p. 696

¹⁶Vuković, T., Comparative analysis of collective agreements for seafarers in the Republic of Croatia and Montenegro, *Journal of Maritime Sciences, Faculty of Maritime Studies Kotor*, Vol. 23 Issue 2, 2022, p.98

The labour status of seafarers is distinctive primarily due to their dual subordination. Seafarers are not only subordinate to their employer, but also to the ship's master as the most important and responsible person on board. Furthermore, the ship is not only a place of work for seafarers, but also a place of life, leading to constant shift work and overtime, which is often not calculated.¹⁷

Although living conditions on board have considerably improved in recent times, the conditions in which seafarers spend their sailing cycle have changed, one could even say deteriorated. In contemporary times, ports are located miles away from social and cultural centres, and the time spent in them is measured in hours. As a result, seafarers spend the majority of their working time exclusively on board, without genuine contact with the outside world.

The specific place of work leads to special working conditions that are quite unfavourable. This primarily includes issues such as excessive noise pollution and adverse weather conditions. In some parts of the world, there are also direct threats from politically unstable areas, such as pirates and armed robberies. Due to the specific nature of the seafarers' workplace, additional regulations on working hours are required, as shift work can affect sleep, daily rhythms, and the balance between work and rest. Alongside the previously mentioned particularities of the employment relationship, seafarers also grapple with issues related to repatriation and leaving the crew. Due to the international nature of their work, seafarers often work and co-operate with crew members from different countries and cultures. This requires them to have good communication, teamwork, and adaptability skills.¹⁸

In addition to the aforementioned particularities of the employment relationship,¹⁹ seafarers are also confronted with issues of repatriation and leaving the crew. These two issues are a major problem in today's maritime industry, which is precisely why they were regulated in detail in the 2014 *amendments to the MLC*. Frequently, employers abandon ships and crew due to ships becoming unprofitable, and shipowners being unable to fulfil their financial obligations. Employer abandonment of crew has increased, especially since the start of the COVID-19 pandemic, with a record 111 cases of crew abandonment from January 2020 to April 2021, resulting in the loss of more than 1,300 seafarers around the world.²⁰

It is important to note that the employment conditions of seafarers vary based on the flag state under which the ship sails, its regulations, and the nature of the employment. International conventions offer a legal framework for governing the working, living, and social conditions of seafarers. However, individual states further detail their status through their own regulations, overseeing the application and enforcement of labour acts.

3. INTERNATIONAL LEGAL FRAMEWORK FOR THE LABOUR STATUS OF SEAFARERS

The complexity of the labour status for seafarers has resulted in numerous issues related to the exercise of their employment rights not being clearly defined or fully regulated. This ambiguity has raised concerns about the legal framework and the perception that seafarers may not be adequately protected in the exercise of their rights. It is precisely for this reason that the International Labour Organisation (ILO), as the global umbrella

¹⁷ Lovrić, J., *Pomorac, što to danas znači*, Naše more, vol 40, No 3-4, Dubrovnik, 1993, p. 91

¹⁸ The largest number of seafarers in the world comes from the Philippines, around 350,000. In addition to the Philippines, many seafarers come from countries with a long maritime tradition such as China, England, Norway, India, and Russia.

¹⁹ Repatriation, in accordance with the provisions of the Collective Agreement, entails the costs of returning a seafarer to their place of residence (the place where the employment contract was concluded). These costs are borne by the employer and consist of the basic salary and daily allowances.

²⁰ A particularly interesting case from 2021 concerns the crew of the ship *Ali Bey*, who were in Romania abandoned by their employer for 11 months, and spent 21 months on board.

organisation overseeing the rights of all workers, has adopted the majority of conventions pertaining to seafarers' work.²¹

The International Labour Organisation, founded in 1919 by the victorious countries of the First World War, is headquartered in Geneva. It was established with the belief that universal and lasting peace can only be achieved through social and societal justice.²² The organisation's mission is to promulgate international regulations through its normative activities,²³ ensuring employment, improved working conditions, and the rights of workers. This is of great significance, as the right to work is considered one of the fundamental human rights, alongside the right to life and the right to freedom. In its over 100 years of activity, the ILO has adopted 190 Conventions and 207 Recommendations, collectively constituting some of the most crucial sources of labour acts.²⁴

Not only is the ILO the first specialised agency of the United Nations, but it is also unique in its tripartite structure. In tripartism, workers and employers are equal partners with the governments of member states in the organisation's governing bodies. Currently, the ILO has 187 member states, encompassing all the countries analysed in this study. The Republic of Croatia and Slovenia became members of the ILO in 1992, Bosnia and Herzegovina in 1993, and Montenegro in 2006. The objectives of the ILO can be categorised into three main areas. Global and lasting peace can only be built on social justice. Poor working conditions result in injustice and poverty for a large number of people, fostering dissatisfaction that threatens harmony and peace in the world. Every country must adopt a humane attitude towards labour, not only for reasons of justice, but to encourage other countries to improve the situation of their workers.²⁵

The ILO achieves its objectives through normative, practical, and scientific-research activities. Foremost among these is its normative activity, which establishes minimum standards for working conditions at the international level. These standards are subsequently incorporated into the national labour legislation of the member states. The most important instruments of the ILO's normative activities are conventions and recommendations. The key distinction between conventions and recommendations lies in the extent of their legal obligations for the member states. The convention is legally binding for the member states that have ratified it, as it becomes part of their internal legal system through the ratification process. The recommendation, on the other hand, is advisory in nature and serves as a supplement to the convention.

The fundamental organisational structure of the ILO comprises three main bodies: *the International Labour Assembly*, *the Governing Body*, and *the International Labour Office*. The International Labour Assembly is the highest body, the Governing Body serves an executive function, while the International Labour Office is a permanent body based in Geneva, led by the director. Various commissions, all with the aim of achieving the ILO's objectives and sustaining the tripartite structure, support these bodies.

The pivotal convention regulating the labour status of seafarers is *the MLC*, which has markedly elevated standards for the protection of labour and social rights in the maritime sector. Although it was adopted in 2006,

²¹ Bilić, A., Smokvina, V., Problems and Perspectives of Seafarers' labour contracts in the light of Maritime Labour Convention with special reference to Croatian legislation, Proceedings – 3rd International Scientific Conference on Maritime Law, Suvremeni izazovi pomorske plovidbe, Split, 2021, p.17

²² Maul, D., The International Labour Organisation, 100 years of global social policy, Berlin: De Gruyter Oldenbourg, 2019, p. 138-139., Bilić, Bukljaš, Međunarodno radno pravo, Faculty of Law in Split, 2006, p.24

²³ Normative activity of the ILO is the international harmonisation of minimum standards regarding working conditions and their implementation in the national labour legislation of member states. The main instruments of the ILO's normative activity are conventions and recommendations. The fundamental difference between conventions and recommendations is in the degree of their legal obligation for member states. Namely, the convention is legally binding for the member states that have ratified it, because through the ratification process it becomes part of their internal legal system. On the other hand, the recommendation is advisory in nature and serves as a supplement to the convention. This means that the convention prescribes certain general rules, while the recommendation prescribes special rules that serve to implement the convention..

²⁴ Učur, M., Laleta, S., *Konvencije Međunarodne organizacije rada s komentarima*, Rijeka: TIM press, Faculty of Law, 2007

²⁵ Bilić, A., Bukljaš, B., *Međunarodno radno pravo*, Faculty of Law in Split, 2006, p. 24

it only came into force in 2013. The reason for this is the very high requirements set by the ILO for its entry into force. It stipulated that it would enter into force twelve months after ratification by 30 countries, contingent on these countries collectively representing at least 33% of global gross tonnage. As of now, 102 countries have ratified *the MLC*, indicating nearly universal support.²⁶ *The MLC* consolidates 68 documents (37 Conventions and 31 Recommendations) adopted prior to it, addressing subsidies and seafarers' labour status. In the normative practice of the ILO, it is customary to segregate binding standards from non-binding ones, resulting in the text of the convention being followed by the recommendations.²⁷ However, as the IMO was involved in the drafting of *the MLC*, it is structured in a similar way to the practice that the IMO applies to its international conventions. This implies that binding standards and recommendations are consolidated in a single act.

Thus, *the MLC* consists of the Preamble, the Articles, the Rules, and the Code. The basic rules and principles, as well as the basic obligations of the member states of *the MLC*, are contained in the Articles and Rules, while the details on the application of the rules are contained in the Code. Part A (Standards) of the Code is obligatory, while Part B (Guidelines) contains recommendations that member states should take into account when adopting national regulations to implement *the MLC*. The rules and the Code are divided into five chapters.²⁸ *The minimum requirements for a seafarer to work on a ship* form the first chapter, encompassing provisions on the minimum age for working on a ship, medical certificate, seafarer qualifications, recruitment, and placement. The second chapter, *Conditions of employment*, outlines requirements related to seafarers' employment contracts, wages, working hours, compensation in case of ship loss or sinking, the minimum number of crew members, and repatriation. The third chapter, titled *Accommodation, recreational facilities, food and catering*, details standards for onboard accommodation and rest rooms, as well as the quality of catering and its service. The fourth chapter, *Health protection, medical care, welfare and social security protection*, addresses seafarers' health protection, medical care, social protection, and the shipowner's responsibility for illness or accidents at work. The final chapter, *Compliance and enforcement*, includes provisions on the responsibilities of the flag state, port state, and the state from whose territory the seafaring labour originates.

It is essential to highlight that *the MLC* can undergo amendments and supplements, with articles and rules adopted during international conferences in accordance with Article 19 of the ILO²⁹. Notably, the Code holds more significance in terms of amendments, as it can be modified through a simplified procedure outlined in Article 15 of the Convention. This flexibility enables *the MLC* to continually adjust to new requirements and challenges in the maritime industry.³⁰ To date, *the MLC* has undergone four amendments.

The most significant amendments were implemented in 2014, introducing crucial provisions such as the establishment of a mandatory financial guarantee. Notably, these amendments marked a historic moment in maritime transport by enhancing the position of abandoned seafarers through binding international legislation within the repatriation provisions.³¹ According to these amendments, a seafarer is considered abandoned if the shipowner, in violation of *the MLC* requirements and the seafarer's labour contract, fails to cover repatriation costs, leaving the seafarer without necessary support and assistance. Furthermore, these amendments compel Member States of *the MLC* to mandate their ships to possess a special certificate confirming the existence of

²⁶ <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:80001:0> accessed on 5 July, 2023

²⁷ Rukavina, B., Radni, životni i socijalni uvjeti pomoraca u kontekstu rješenja Konvencije o radu pomoraca i nacionalnog prava, *Pomorstvo*, y 21, No. 1 (2007), p.166

²⁸ Maritime Labour Convention, Official Gazette, International Treaties, No. 11/09; Maritime Labour Convention, Maritime Gazette, MMTPR, 2006. Each chapter contains a set of provisions related to a specific right or principle (or implementing measure in Chapter 5), linked by numbers. The first group in Chapter 1, for example, consists of Rule 1.1, Standard A1.1, and Guidelines B 1.1, which relate to the minimum age.

²⁹ dostupno na: http://www.ilo.ch/dyn/normlex/en/f?p=1000:62:0::NO:62:P62_LIST_ENTRIE_ID:2453907:NO

³⁰ Rukavina, B., Radni, životni i socijalni uvjeti pomoraca u kontekstu rješenja Konvencije o radu pomoraca i nacionalnog prava, *Pomorstvo*, y 21, No. 1 (2007), p. 167

³¹ Petrinović, R., Lovrić, I., *Osiguranje pomoraca prema novoj Konvenciji o radu pomoraca*, *Poredbeno pomorsko pravo*, y 54, No. 169, Jadranski zavod HAZU, Zagreb, 2015, p. 163

financial security for compensation in the event of a seafarer's death or a long-term incapacity resulting from an industrial accident, ensuring entitlement for the seafarer or their heirs.³²

In addition to these significant changes, *the MLC* underwent amendments in 2018, 2020, and 2022. These revisions aimed at adapting provisions related to industrial accidents, addressing issues of harassment and abuse onboard, regulating the rights of seafarers in the event of capture by pirates, and tackling challenges posed by the COVID-19 pandemic. The pandemic has significantly impacted the position of seafarers in international shipping, leading to hundreds of thousands of them being stranded on ships, even after their employment contracts expired, with no possibility of returning home within the agreed period. Conversely, many seafarers faced delays in joining ships, resulting in the loss of their regular income. This scenario underscores the importance of having a mechanism for simplified amendments to *the MLC* Code, enabling the strengthening of seafarers' rights through binding international legislation by addressing deficiencies or ineffectiveness in the existing provisions.

4. NATIONAL LEGAL FRAMEWORK FOR THE LABOUR STATUS OF SEAFARERS

This chapter undertakes a comparative analysis of the legal frameworks in Croatia and its neighbouring countries (Slovenia, Montenegro, and Bosnia and Herzegovina), which serve as the foundational basis for labour relations in these nations. It is noteworthy that all the observed countries have ratified *the MLC*. The Republic of Croatia and Bosnia and Herzegovina did so in 2010, Montenegro in 2015, and Slovenia in 2016.³³ Beyond the mere ratification of *the MLC*, what holds greater significance is how these countries have incorporated its provisions into national law and their diligence in monitoring the implementation of its requirements on ships flying their flag, a topic that will be discussed in detail below.

It is noteworthy that all of the observed states were part of the same cultural, social, legal, and political circle, having been integral parts of the Socialist Federal Republic of Yugoslavia (SFRY). Consequently, *the 1977 Law on Maritime and Inland Navigation* significantly influenced their maritime law.³⁴ It represented the codification and systematisation of all Yugoslavian maritime law. This law was characterised by its high quality, unburdened by provisions related to the socialist state organisation. Instead, it stood as a modern legal framework for its time, incorporating provisions from international conventions ratified by the SFRY, as well as some that were not ratified but remained relevant to the maritime sector³⁵. *The Law on Maritime and Inland Navigation* comprehensively addressed administrative and property aspects of maritime and inland navigation, labour relations of seafarers, applicable law, and corresponding procedural and criminal law provisions. Following the disintegration of the SFRY, each country adopted the law into their national maritime law, where it remained in effect until the enactment of new national maritime legislation. In Bosnia and Herzegovina, it is still in force today, albeit in a slightly adapted version.

Given the unique labour status of seafarers, none of the observed countries has a singular law governing this matter in its entirety. Instead, regulations governing working, social, and living conditions of seafarers are dispersed across several national laws, including Labour Acts, maritime laws, collective agreements for seafarers, and various secondary laws and acts related to seafarers.

³²See more: Petrinović, R., Lovrić, I., Perkušić, T., *The Role of P&I Insurance in Implementing the Amendments to the MLC 2014*, Transactions on Maritime Science, 6 (2017), 1; 39-47

³³www.ilo.org/countryprofile.com, accessed on 7 July, 2023

³⁴ Official Gazette SFRY, No. 22/77, 13/82, 30/85, 80/89 and 29/90

³⁵ Brajković, Čolović, Filipović, Jakaša, Katičić, Pallua, Tomašić, Triva, *Zakon o pomorskoj i unutarnjoj plovidbi s napomenama i komentarima*, Official Gazette, Zagreb 1986

4.1. THE REPUBLIC OF CROATIA

In the Republic of Croatia there are currently around 22,000 registered seafarers,³⁶ who make up 1.5 per cent of the total workforce and generate more than one billion euros in revenue for the state. Additionally, there are 317 merchant ships flying the Croatian flag, representing 0.11% of the total gross tonnage of the world merchant fleet. The coastline of the Republic of Croatia, including the islands, spans approximately 6,000 kilometers. These data highlight Croatia's maritime nature, emphasising the crucial role of seafarers and the maritime industry in the country's economy. Consequently, the regulation of the labour status of Croatian seafarers holds paramount importance. The Republic of Croatia ratified *the MLC* on 12 February 2010, committing to align its national maritime legislation with the convention's provisions through *the Act on Confirmation of the Maritime Labour Convention of 2006*,³⁷ which came into force on 28 November 2009. The primary regulations governing the status of seafarers in Croatia include *the Maritime Code*,³⁸ *the Labour Act*,³⁹ *the Regulations on the Application of the 2006 Maritime Labour Convention* and *the Collective Agreement for National Collective Agreement for Croatian Seafarers on Board Ships in the International Shipping Trade*.⁴⁰

In every country, including the Republic of Croatia, the labour act stands as the paramount regulation governing the status of all employees, seafarers included. The uniqueness of seafarers' labour status is delineated in Article 14, paragraphs 7 and 8, stipulating that the employment contracts of seafarers and workers on sea fishing vessels must be registered with the competent state administrative body in the county (or the City of Zagreb) responsible for labour matters. The procedure for registering employment contracts of seafarers and the contents of the register are meticulously outlined in *the Regulation on the Ordinance on the Procedure of Registration and the Content of the Register of Employment Contracts for Seamen and Workers on Maritime Fishing Vessels*.⁴¹ The obligation to register seafarers' employment contracts arises, not solely from the distinct labour status of seafarers, but also from the unique status of the merchant ship as the workplace and the shipowner as the employer.⁴² Given the special labour status of seafarers, the Republic of Croatia has issued specific regulations to comprehensively address their rights and obligations.

4.1.1. The Maritime Code

The current maritime law in Croatia is anchored in *the Maritime Code*, which took effect in December 2004. This legal framework governs all crucial public law and property law relationships related to the sea, maritime shipping, and seagoing vessels.⁴³ Widely regarded as one of the most contemporary maritime codes globally, it aligns its provisions with the widely accepted standards of international instruments and regulations from the European Union (EU) pertaining to shipping. Notably, Chapter VIII of the Maritime Code, commonly known as the Ship Manning, holds particular significance for seafarers, encompassing a total of 39 articles.⁴⁴ Over time, *the Maritime Code* has undergone several amendments, with the most recent changes in 2019, bearing relevance to seafarers. The mentioned amendments and additions primarily pertain to the taxation of seafarers, specifically their exemption from the requirement to pay income tax. According to Article 128 of the *Maritime Code* a crew member of a ship involved in international navigation and residing in the Republic of

³⁶ www.sph.hr, accessed on 7 July 2023

³⁷ Zakon o potvrđivanju Konvencije o radu pomoraca iz 2006, Official Gazette, Međunarodni ugovori, No. 11/09

³⁸ *Maritime Code*, Official Gazette, No. 181/04, 76/07, 146/08, 61/11, 56/13, 26/15 and 17/19

³⁹ *Labour Law*, Official Gazette, No. 93/14, 127/17, 98/19, 151/22 and 64/23

⁴⁰ Collective Agreement for National Collective Agreement for Croatian Seafarers on Board Ships in the International Shipping Trade. (2023-2024), Official Gazette, No. 21/23

⁴¹ Pravilnikom o postupku registracije i sadržaju registra ugovora o radu pomoraca i radnika na pomorskim ribarskim plovilima, Official Gazette No. 32/15

⁴² Učur, M. Đ., Smokvina, V., Problematika radnopravnog statusa pomorca i ribara u pomorskoj plovidbi u Republici Hrvatskoj s posebnim osvrtom na registraciju ugovora o radu, *Naše More* Vol. 62 No. 4, Dubrovnik 2015, p. 106

⁴³ Čorić, D., *Novi Pomorski zakonik*, Zbornik radova – Savjetovanje Pomorski zakonik Republike Hrvatske i druge novine iz područja pomorskog i prometnog prava, Rijeka, 2005, p. 9

⁴⁴ *Ibid*, Chapter VIII, Posada broda, art 125-164

Croatia is exempt from the obligation to pay income tax if they have spent at least 183 days sailing in the year for which the income tax obligation is determined. Additionally, the article specifies that the 183 days need not be consecutive, and all days spent at sea are considered in this calculation. Therefore, besides the days spent at sea, the days spent on the journey back, days of treatment due to work-related illness or injury, days spent for professional training domestically or internationally, and the days until the expiration of the employment contract that remain unfulfilled due to the shipowner's abandonment of the seafarer or the termination of the employment contract for business reasons, are also considered. The condition of 183 sailing days is also considered fulfilled if the seafarer dies, retires, or is kidnapped during the tax year.⁴⁵

Furthermore, *the Maritime Code* allows the conclusion of several successive fixed-term employment contracts with a member of the ship's crew for an uninterrupted period longer than that specified in *the Labour Act*,⁴⁶ indicating that a seafarer's employment contract is a unique form of employment contract.⁴⁷ To equalise conditions for the employment of Croatian seafarers on both domestic and foreign ships, Article 128 of the *Maritime Code* specifies that a seafarer on board a Croatian-flagged ship engaged in international navigation is obligated to pay pension and health insurance contributions. Additionally, for enhanced protection of seafarers, *the Maritime Code* establishes a joint and severe liability for the shipowner, the master, the company, and the employer in cases of death, personal injury, and damage to the health of a crew member.

4.1.2. Collective agreements

Collective agreements play a crucial role in regulating the labour status of seafarers in the Republic of Croatia, in addition to *the Labour Act* and *the Maritime Code*. These agreements contain specific provisions addressing rights such as repatriation, food and accommodation, and on-board medical care, setting them apart from general collective agreements.⁴⁸ The collective agreements establish minimum guaranteed rights for seafarers, ensuring that shipowners cannot diminish these rights through their own regulations.⁴⁹ These agreements serve as the direct legal basis for seafarers' rights, duties, and responsibilities within the respective shipping companies. In the Republic of Croatia, there are currently two collective agreements in force for seafarers: *the Collective Agreement for Seafarers on Ships Engaged in Coastal Shipping*⁵⁰ and *The Collective Agreement for Croatian Seafarers on Ships Engaged in International Shipping*.⁵¹

The Collective Agreement for Croatian Seafarers on Ships Engaged in International Shipping (2023-2024) was established on December 29th 2022, and is effective from January 1st 2023. The agreement was negotiated between the Croatian Seafarers' Union (CSU) and the Croatian Shipowners' Association *Mare Nostrum*, which comprises ten members, including some of the largest Croatian shipowners. The association, being a member of *the International Transport Workers Federation* (ITF), is obligated to adhere to the minimum standards outlined in the ITF basic collective agreement across various areas. *The Collective Agreement for Croatian Seafarers on Ships Engaged in International Shipping* represents a continuation of the ongoing and intricate collaboration between the CSU and *the Mare Nostrum* shipowners' association. They consistently enter into similar collective agreements for seafarers in international shipping approximately every two years on average. This ongoing collaboration is crucial as it allows the involved parties to continually adapt to changes in the maritime industry, ensuring optimal solutions for both seafarers as employees and shipowners as employers.

⁴⁵ Maritime Code, art 128 para 2

⁴⁶ Labour Act, art 12

⁴⁷ Maritime Code, art 127 para 1

⁴⁸ Rozić, I., Vuković, T., Božiković, N., Kolektivni ugovori kao izvor prava za reguliranje radnog statusa pomoraca u Republici Hrvatskoj, Zbornik Pravnog fakulteta Sveučilišta u Rijeci, vol. 42, br. 3, Rijeka 2021, p. 702

⁴⁹ Učur, M. Đ., Nacionalni kolektivni ugovor za hrvatske pomorce na brodovima u međunarodnoj plovidbi (2013. – 2015.), Naše More 61, No. 5-6 (2014), p. 118

⁵⁰ Kolektivni ugovor za pomorce na brodovima koji obavljaju prijevoz u linijskom obalnom pomorskom prometu, Official Gazette, No. 93/23

⁵¹ Kolektivni ugovor za hrvatske pomorce na brodovima u međunarodnoj plovidbi (2023-2024), Official Gazette, No. 21/23

Despite using the term "labour contract" (in *the Maritime Code*) instead of "employment contract," (in *the Collective Agreement*), these terms are considered synonymous within the context of this collective agreement. This means that the Agreement on the Employment/Labour of Croatian seafarers in international shipping is aligned with the provisions of the MLC, *the Maritime Code*, *the Labour Act* and *the Collective Agreement*.⁵² The employment of seafarers and everything related to the employment contracts of seafarers is regulated in Article 3 of the Collective Labour Agreement.

The Collective Agreement for Croatian Seafarers on Ships engaged in International Shipping goes beyond addressing the employment of seafarers: it also covers various crucial aspects related to the ship's crew. These include remuneration, overtime, determination of working hours and annual leave, crew composition and size, navigation in war zones, repatriation, sick leave, and more. The agreement encompasses eight general annexes that cover topics such as the salary scale, minimum wages for seafarers, a list of monetary benefits, national holidays, compensation for physical injury, the on-board complaints procedure, and the lists of conciliators and arbitrators. It is noteworthy that *the Collective Agreement for Croatian seafarers*, along with all its amendments, is fully aligned with international conventions in the field of maritime law.

4.2. MONTENEGRO

Montenegro is a country with a significant maritime orientation, boasting around 6,000 seafarers who contribute to 12% of the state budget's income.⁵³ Additionally, Montenegro is home to the oldest maritime university on the east coast of the Adriatic.⁵⁴ The country has fourteen vessels engaged in international shipping under the Montenegrin flag, representing 0.01% of the total gross tonnage of the global merchant fleet. Given the substantial impact of seafarers on Montenegro's economy, the regulation of their labour status is of utmost importance. Montenegro ratified the MLC in February 2015, aligning its national legislation with its provisions. The legal foundations for Montenegro's maritime law are akin to those of the Republic of Croatia, and regulations adopted by Croatia for the maritime sector and seafarers have influenced Montenegrin maritime legislation in various ways.⁵⁵

Provisions governing the labour status of Montenegrin seafarers are articulated in various regulations, with particular emphasis on *the Labour Act*⁵⁶ and *the Maritime Safety Act*.⁵⁷ *The Law on Maritime Navigation Safety*, enacted in December 2013, plays a significant role in this context. Its tenth part provides detailed regulations concerning the working and living conditions of seafarers. Article 153 of the Law on Maritime Safety outlines that a crew member, when embarking on a ship engaged in international shipping, must possess a written employment contract signed by both the seafarer and the shipowner or company. In cases where the shipowner, ship manager, or company is not the employer, evidence of a contractual relationship ensuring normal working and living conditions on board, in accordance with the law and the collective labour agreement for seafarers, must be provided. Beyond employment contracts, this law specifies requirements related to insurance and guarantees in the event of seafarers leaving the ship, working hours and night work, annual leave, medical care on board, accommodation and rest facilities, food and catering, and onboard grievance procedures. It is evident that Montenegro has incorporated the provisions of the MLC into its national legislation through this law. Furthermore, a crew member who is a Montenegrin citizen has the option to approach the diplomatic or consular representations of Montenegro in foreign ports to safeguard their rights arising from the

⁵² Rozić, I., Vuković, T., Božiković, N., Kolektivni ugovori kao izvor prava za reguliranje radnog statusa pomoraca u Republici Hrvatskoj, Zbornik Pravnog fakulteta Sveučilišta u Rijeci, vol. 42, No. 3, Rijeka 2021, p. 705

⁵³ Službena Internet stranica Unije pomoraca Crne Gore - www.unijapomoraca.com, accessed on 22 July, 2022

⁵⁴ *Montenegro University* – Faculty of Maritime Sciences Kotor, founded in 1974

⁵⁵ Vuković, T., Comparative analysis of collective agreements for seafarers in the Republic of Croatia and Montenegro, Journal of Maritime Sciences, Pomorski fakultet Kotor, Vol. 23 Issue 2, 2022, p. 100

⁵⁶ *Labour Act*, Official Gazette of Montenegro, No. 62/13Ibid, Art 162

⁵⁷ *Zakon o sigurnosti pomorske plovidbe*, Official Gazette of Montenegro, No. 62/13, 6/14, 47/15, 71/17, 34/19 and 77/20

employment relationship.⁵⁸ Additionally, the placement of Montenegrin seafarers can be facilitated by a legal entity authorised by the competent ministry, besides the employment office.⁵⁹

In addition to these two laws, *the Sectoral Collective Agreement for Maritime Transport and Port Handling Services*, concluded in 2004 between the Independent Trade Union of Maritime and Transport Workers of Montenegro and the Association of the Maritime Chamber of Commerce of Montenegro, plays a crucial role in regulating the labour status of seafarers in Montenegro. The union, being a member of the ITF, has committed to adhering to the minimum standards outlined in the ITF's basic collective agreement. Consequently, the rights and obligations of Montenegrin seafarers during their employment align with the ITF collective labour agreement for shipping and the provisions outlined in *the MLC*.⁶⁰ A noteworthy aspect in Montenegro is that each shipping company has its own trade union operating within the company, adopting its individual collective agreements. As a result, there are two such collective agreements in Montenegro: the *Collective Agreement for the crew of ships with the employer Crnogorska plovidba a.d. Kotor* and *the Collective Agreement for the crew of cargo ships with the employer Barska plovidba a.d. Bar*. Through these collective agreements, employers establish the status of seafarers in their respective companies. This underscores the significance of trade union activity in Montenegro, playing a vital role in safeguarding and exercising seafarers' labour rights.

4.3. BOSNIA AND HERZEGOVINA

Given its geographical location and limited maritime infrastructure, Bosnia and Herzegovina (BiH) is not considered a traditional maritime state. Although it has a coastline of twenty-four kilometers in the municipality of Neum, BiH does not have the characteristics of a port or flag state under *the UN Convention on the Law of the Sea*. It lacks access to the open sea, a prominent maritime university, and a well-established maritime administration. As a result, the maritime industry has a relatively minor impact on the country's economy. BiH has around 600 seafarers holding Bosnian and Herzegovinian maritime licenses. However, the actual number of seafarers is likely higher, as many individuals residing in Bosnia and Herzegovina sail under Croatian or Montenegrin maritime licenses due to the underdeveloped maritime administration in BiH. The absence of seaports and merchant ships in international traffic flying the Bosnian and Herzegovinian flag further reflects the limited influence of the maritime industry on the country's economic landscape.

Bosnia and Herzegovina's maritime law, like that of other former states of the SFRY, was initially based on *the Law on Maritime and Inland Navigation* of 1977. However, after gaining independence, the country has not yet adopted its own maritime code. Additionally, there is no organised trade union in Bosnia and Herzegovina specifically representing the rights of seafarers. The absence of trade unions also means a lack of collective labour agreements for seafarers and shippers' associations. The labour rights of seafarers in Bosnia and Herzegovina are not explicitly regulated, but are governed by general labour legislation. While Bosnia and Herzegovina ratified *the MLC* on January 18, 2010, it has not yet implemented its provisions into its shipping legislation, despite committing to do so. Furthermore, the country has ratified several other international treaties related to seafarers and shipping, either independently or as one of the successor states of the SFRY.

Due to its specific territorial structure based on *the Dayton Agreement*⁶¹ Bosnia and Herzegovina has general regulations for maritime transport, primarily governed by *the Law on Inland and Maritime Navigation of*

⁵⁸ Ibid, art 162

⁵⁹ Ibid, art 163

⁶⁰ Granski kolektivni ugovor za pomorski saobraćaj i lučko-pretovarne usluge. Art 4, para 1

⁶¹ *The Dayton Agreement* was officially signed on December 14, 1995 in Paris. Although it was never translated, ratified and published in the Official Gazette in Bosnia and Herzegovina, today's political and territorial structure of Bosnia and Herzegovina was established based on it.

*the Federation of Bosnia and Herzegovina*⁶², *the Law on Inland Navigation in the Serbian Republic*⁶³, and *the Law on Inland Navigation in the Brčko District of Bosnia and Herzegovina*.⁶⁴ While *the Law on Inland and Maritime Navigation of the Federation of Bosnia and Herzegovina* covers both maritime and inland waterway transport, the other two legal acts, *the Law on Inland Navigation in the Serbian Republic* and *the Law on Inland Navigation in the Brčko District of Bosnia and Herzegovina*, focus specifically on institutions and relationships in inland waterway transport.⁶⁵

The Law on Inland and Maritime Navigation of the Federation of Bosnia and Herzegovina, adopted in 2005, is a crucial regulation in the Federation of Bosnia and Herzegovina related to seafarers. Article 143 of *the Law on Inland and Maritime Navigation of the Federation of Bosnia and Herzegovina* is particularly significant, covering various aspects of maritime transport. The law is organized into eleven chapters, addressing key areas such as shipping and its safety, the legal status of ships, boats, and floating objects, inspection supervision, and the legal status of ports, anchorages, moorings, and marinas. Articles 47-49 specifically regulate the ship's crew, defining it as all persons on board engaged in ship-related work, holding ship or navigation licenses, and listed in the crew list.⁶⁶ *The Law on Inland and Maritime Navigation of the Federation of Bosnia and Herzegovina* specifies that a member of the ship's crew must possess the relevant title and authorisation to perform tasks associated with that title on board. Special regulations, introduced by the Federal Minister, outline the minimum number of crew members required for safe navigation on inland waterway and seagoing vessels. These regulations contribute towards ensuring the safety and competency of the ship's crew.⁶⁷ *The Law on Inland and Maritime Navigation of the Federation of Bosnia and Herzegovina* addresses administrative offences, providing a framework for ensuring compliance.⁶⁸ Unfortunately, this new law did not come into force due to financial reasons, despite the Ministry of Communications and Transport having prepared a preliminary draught. In addition to *the Law on Inland and Maritime Navigation of the Federation of Bosnia and Herzegovina*, the labour rights of seafarers in Bosnia and Herzegovina are regulated by the *Labour Act of the Federation of Bosnia and Herzegovina* within the broader context of general labour relations.⁶⁹ This law applies to all employees in that territory, suggesting that seafarers in Bosnia and Herzegovina are not recognised as a distinct group of employees, but are considered on par with other employees on land concerning their rights and obligations.

4.4. REPUBLIC OF SLOVENIA

Slovenia, despite its relatively small coastline of forty kilometers and approximately 500 sailors, exhibits characteristics of a maritime state.⁷⁰ It has seven merchant ships sailing under its flag, and the port of Koper is recognised as the busiest port on the eastern coast of the Adriatic.⁷¹ Additionally, Slovenia has maritime universities, with the European-Mediterranean University in Portorož being a prominent institution. Slovenia ratified *the MLC* on April 15th 2016, and it has integrated the convention's provisions into national law. Despite

⁶² Zakon o unutrašnjoj i pomorskoj plovidbi Federacije Bosne i Hercegovine, Official Gazette of the Federation of Bosnia and Herzegovina No. 73/05

⁶³ Zakon o unutrašnjoj plovidbi Republike Srpske, Official Gazette of Serbian Republic, No. 58/01, 113/05, 33/06 and 1/08

⁶⁴ Zakon o unutrašnjoj plovidbi u Brčko distriktu Bosne i Hercegovine, Official Gazette of Brčko District of Bosnia and Herzegovina No. 28/08

⁶⁵ Bolanča, D., Izvanugovorna odgovornost za smrt i tjelesne povrede kupača i drugih osoba u moru (vodi) koje prouzrokuje brod (Usporedba bosansko-hercegovačkog i hrvatskog plovidbenog zakona), Zbornik radova: Pravo, tradicija i promjene, Istočno Sarajevo 2020., str. 33.

⁶⁶ Zakon o unutrašnjoj i pomorskoj plovidbi Federacije Bosne i Hercegovine, Art 47 para 1

⁶⁷ *Ibid*, Art 47 para 1

⁶⁸ *Ibid*, Art 136 -138

⁶⁹ Zakon o radu Federacije Bosne i Hercegovine, Official Gazette of Federacije Bosne i Hercegovine br. 26/16 and 89/18

⁷⁰ www.ilo/member-profile.com, accessed on 17 July, 2023

⁷¹ Port Koper has been experiencing continuous growth since 2007, when it achieved a sudden increase of 40% in total traffic. Today, it can accommodate ships with a maximum capacity of 8,000 TEU. TEU stands for "twenty-foot equivalent unit" in English and refers to the cargo capacity of container ships and terminals. It is based on the measurements of containers according to ISO standards used for transporting cargo by ships, trucks, and railways. The standard length of such a container is 6.1 m (20 ft), width is 2.4 m (8 ft), and height is 2.6 m (8.5 ft). The volume is 39 m³, and the permitted gross weight is usually 24 tons, with a net weight of 21.6 tons.

the absence of an organised trade union representing the rights of Slovenian seafarers, the Association for Maritime Law of the Sea in Slovenia plays an active role in the country. This association collaborates with state bodies in the development and enactment of laws related to the sea, advocates for the harmonisation of Slovenian legislation with the EU, and provides support and advice to individuals regarding maritime law.⁷²

Slovenia, alongside the Republic of Croatia, Bosnia and Herzegovina, and Montenegro, is one of the successor states of the SFRY. The maritime legislation of Slovenia is grounded in *the Law on Maritime and Inland Navigation* of 1977. The current internal legislation governing maritime law in Slovenia is the *Maritime Code*⁷³ which regulates Slovenia's sovereignty, rights, jurisdiction, and control at sea. The code that regulates the safety enacted in 2001 is very comprehensive and consists of 999 articles. They address Slovenia's sovereignty, rights, jurisdiction, and control at sea. It covers various aspects, including the safety of navigation, protection of the sea from pollution, and legal regulations concerning harbours. *The Maritime Code* has undergone multiple amendments and supplements to align with new international conventions ratified by Slovenia in the field of maritime transport.

Slovenia's *Maritime Law* addresses the ship's crew in the ninth chapter of the second part.⁷⁴ This chapter encompasses various aspects related to seafarers, including their employment contracts, responsibilities, leave duration, minimum working age on a ship, working hours, overtime, and the right to return home.⁷⁵ In order for a person to board a ship registered in the Slovenian ship register as a crew member, they must have a certificate of professional qualification. To board a ship registered in the Slovenian ship register as a crew member, an individual must possess a certificate of professional qualification. Additionally, they need to undergo regular medical examinations to demonstrate their physical and mental fitness for work on board.⁷⁶ *The Maritime Code* in Slovenia outlines specific requirements for a seaman to enter into an employment contract, including the possession of a valid seaman's book and a written employment contract.⁷⁷ Article 157d provides detailed specifications for the contents of a seafarer's employment contract, conditions for its termination, and emphasises harmonisation with *the MLC* provisions. Additionally, *the Maritime Code* mandates consideration of *the MLC* provisions when offering placement services for the employment of seafarers.⁷⁸

The Slovenian Employment Relationships Act,⁷⁹ applicable to seafarers unless specifically addressed by a separate act, plays a crucial role.⁸⁰ It recognises the employment contract of seafarers as an independent contract and imposes obligations on the employer in a manner aligned with *the MLC*. The Act defines an employment contract as a bilateral legal agreement between a seafarer and a shipowner or an authorised person. Alongside general conditions for entering an employment relationship, special conditions are required, verified by a seafarer's certificate detailing professional qualifications, health status, position on the ship, and employment duration.⁸¹

5. CONCLUSION

Ensuring the adequate regulation of the status, working conditions, and living conditions of seafarers is crucial for the smooth and safe operation of the maritime industry, which plays a significant role in the global

⁷² Švetak, J., *Concept of the Slovenian maritime affairs*, Pomorstvo, Faculty of Maritime Studies, Rijeka, 25/2 (2011), p. 268

⁷³ *Maritime Code*, Official Gazette of Republic Slovenia, No 62/16

⁷⁴ *Ibid*, art 150-180

⁷⁵ Ilešič, M., Pavliha, M., *Novi Pomorski zakonik Republike Slovenije*, Pomorski zbornik 38 (2001), p. 268

⁷⁶ *Maritime Code*, Official Gazette of Republic Slovenia, No. 62/16, Art 152

⁷⁷ Prelaz, L., Švetak, J., *Analiza legislative o zapošljavanju pomoraca u Republici Sloveniji*, Naše more Vol. 64 No. 2, Dubrovnik 2017, p. 45

⁷⁸ *Maritime Code*, Official Gazette of Republic Slovenia, No. 62/16, Art 154b

⁷⁹ *Zakon o radnim odnosima*, Uradni list Republike Slovenije br. 21/13, 78/13, 47/15, 33/16, 52/16, 15/17 – decision of the Constitutional Court, 22/19, 81/19, 203/20, 119/21, 202/21 – decision of the Constitutional Court, 15/22, 54/22

⁸⁰ *Ibid*, art 2 para 3

⁸¹ Prelaz, L., Švetak, J., *Analiza legislative o zapošljavanju pomoraca u Republici Sloveniji*, Naše more Vol. 64 No. 2., Dubrovnik 2017, p. 46

economy. With approximately 50,000 merchant ships and 1.9 million seafarers facilitating over 80% of world trade, the maritime industry is a vital component of international commerce.⁸²

The countries examined in this study, with access to the eastern coast of the Adriatic Sea, are strategically positioned for efficient transportation routes to Central and Northern Europe. Leveraging this advantage requires effective organisation of access routes, modernisation of the merchant shipping fleet, development of well-equipped ports, establishment of robust connections with the hinterland, and the cultivation of a skilled and well-trained seafaring workforce. Efforts to regulate and enhance the conditions of seafarers contribute not only to the safety of shipping, but also to the overall success of the maritime industry. Recognising the importance of maritime trade and implementing measures to support the industry can significantly impact the economic prosperity of the observed countries.

Seafarers constitute a unique group of workers with a distinct and specific status that sets them apart from their land-based counterparts. This distinctiveness arises primarily from the fact that seafarers both live and work in the same environment during their time on board, leading to unique working conditions, increased risk of accidents, and potential vulnerability to labour rights abuses. Recognising these challenges, the International Labour Organization (ILO) has developed numerous conventions aimed at regulating and safeguarding the labour rights of seafarers. A significant milestone in enhancing the protection and enforcement of seafarers' labour rights occurred on August 20th 2013, with the entry into force of *the Maritime Labour Convention (MLC)*. The ILO and the International Maritime Organisation (IMO) played key roles in draughting this convention, with the shared objective of advancing the labour, living, and social rights of seafarers within the framework of contemporary maritime legislation. *The MLC* comprehensively addresses nearly all aspects of seafarers' lives and work, and it has garnered widespread ratification globally, underscoring its importance on the international stage.

The selection of countries for analysis in this article—namely, the Republic of Croatia, Montenegro, Bosnia and Herzegovina, and the Republic of Slovenia—is purposeful. These countries share access to the Adriatic Sea and have historical, social, and cultural connections, serving as successors to the Socialist Federal Republic of Yugoslavia. Additionally, they all base their maritime law on the Yugoslavian *Law on Maritime and Inland Navigation* from 1977, sharing borders and historical ties. The unique aspect of this analysis lies in the fact that two of these countries are members of the European Union (the Republic of Slovenia and the Republic of Croatia), while the other two are not EU members, but aspire to join. Furthermore, all four countries are members of the International Labour Organization (ILO) and the International Maritime Organization (IMO), having ratified the Maritime Labour Convention (MLC). This provides an interesting comparative perspective on the specific labour status of seafarers, taking into account both their historical connections and their varied relationships with the European Union.

By ratifying *the MLC*, the observed countries—specifically, the Republic of Croatia and Slovenia—have made commitments to implement its provisions into their national legislation. These two countries, in particular, have excelled in this regard by codifying their entire maritime law through shipping laws that incorporate the MLC provisions. This legislative action has resulted in an improved position for seafarers in terms of tax, pension, and healthcare systems. The Republic of Croatia, in particular, has stood out for its well-organised approach in this area, surpassing many countries with more extensive maritime traditions, larger fleets, and greater numbers of seafarers. The active presence of the Croatian Seafarers' Union in the Republic of Croatia has further contributed towards enhancing the position of Croatian seafarers through the negotiation and implementation of collective labour agreements.

⁸² BIMCO and ICS, 2021, BIMCO, ICS Seafarer Workforce Report: Global supply and demand for seafarers in 2021, Witherby Publishing Group Ltd. (2021)

Montenegro has also made notable improvements in the situation of its seafarers in recent years. The country has organised its legislation based on European Union directives and the regulations in force in the Republic of Croatia. Specifically, *the Maritime Safety Act* of 2013 has played a significant role, helping Montenegro implement the provisions of *the MLC* and codify its maritime law. Furthermore, the presence of organised trade unions for seafarers in Montenegro, even at the level of shipping companies, has facilitated the adoption of collective agreements that apply to employees, contributing towards enhancing their rights and conditions.

On the other hand, Bosnia and Herzegovina, despite ratifying *the MLC*, has not taken substantial measures to protect its seafarers. The country has not adopted specific legislation for seafarers that implements the provisions of *the MLC*, nor has it reformed its tax, pension, and healthcare systems to benefit seafarers. Additionally, the absence of trade union organisations in Bosnia and Herzegovina representing the rights of seafarers further contributes to the lack of special protection and recognition of their unique labour status. Consequently, many seafarers residing in Bosnia and Herzegovina sail with Croatian or Montenegrin seamen's certificates.

In conclusion, despite the commonality of ratifying *the MLC* and some similarities among the observed countries, the regulation of the labour status of seafarers varies. The Republic of Croatia, with its advantageous geographical location and rich maritime tradition, has implemented comprehensive regulations for its seafarers. Being a member of the European Union, Slovenia has also effectively protected and regulated the status of its seafarers by harmonising its maritime legislation with EU regulations. Montenegro, though not a EU member, has made significant progress in recent years by enacting laws and regulations to align with *the MLC*, improving the position of seafarers sailing under Montenegrin certificates. However, Bosnia and Herzegovina faces challenges, lacking specific regulations for seafarers and outdated maritime laws, resulting in a less favourable situation for its seafarers. It is crucial for Bosnia and Herzegovina to promptly adopt and implement national regulations that align with modern international standards in maritime legislation.

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