INTERNATIONAL MARITIME AND TRANSPORT LAW COURSE

MARITIME AND TRANSPORT LAW COLLOQUIUM

TRANSPORT LAW DE LEGE FERENDA 2021

INTER-UNIVERSITY CENTRE

DUBROVNIK, CROATIA

6 - 11 September 2021.

HRVATSKO DRUŠTVO ZA POMORSKO PRAVO
CROATIAN MARITIME LAW ASSOCIATION
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PARTICIPATING ACADEMIC INSTITUTIONS:

Alma Mater Studiorum - University of Bologna, Italy
Croatian Academy of Sciences and Arts, Croatia
Jaume I-University, Castellon, Spain
Nicolaus Copernicus University, Toruń, Poland
University Carlos III – Madrid, Spain
University of Genoa, Italy
University of Ljubljana, Slovenia
University of Rijeka, Croatia
University of Split, Croatia
University of Vigo, Spain
University of Zadar, Croatia
University of Zagreb, Croatia
World Maritime University, Malmö, Sweden

INTERNATIONAL MARITIME AND TRANSPORT LAW COURSE

DUBROVNIK, 6 - 11 September 2020

6 September 2021

Dear colleagues and friends,

Welcome to this exciting maritime-law week in Dubrovnik!

The fast-changing world constantly puts maritime lawyers in front of new challenges. Some of them will be discussed here in Dubrovnik. This year's programme is full of intriguing contemporary topics from various sectors of maritime law. The programme features three distinct events: International Maritime and Transport Law Course, the Maritime Law Colloquium, and Transport Law de Lege Ferenda 2021. We are sure it will offer you plenty of interesting and useful material, irrespective of your age, experience and academic level. Besides continuing the 'three-in-one' concept from the last year's Course, we are also keeping its hybrid format caused by pandemic circumstances, which will enable online participation to those speakers and participants who will not be able to travel.

However, we are glad that the improved situation has permitted the 2021 Course to go mostly "live" with many speakers and participants from seven countries. We really hope that the pandemic will be behind us by the next summer and that we will be able to organize the Third International Maritime and Transport Law Course as a splendid on-site event in Dubrovnik in September 2022.

Besides the IMTLC programme, in which you may find all the presentations of these three parts of the event, this e-booklet also contains the short biographical notes of course speakers and abstracts of their lectures and presentations, which will be available at the Inter-University Centre website.

As always, the speakers are top maritime-law professionals: renowned academics representing fourteen academic institutions and experienced practitioners. It is exciting to have such a concentration of minds under the same roof. We would like to express our gratitude to all of them, as well as to the participating academic institutions and to the Course attendees, law students and recently graduated lawyers, who obviously share our passion for maritime law. Our special thanks go to our hosts: the Inter-University Centre and the kind staff members at the IUC Secretariat: Nada Bruer Ljubišić, Tomislav Kvesić and Nikolina Vekić for their continuous help and assistance.

Finally, on behalf of the Croatian Maritime Law Association, we wish you to enjoy your week at the International Maritime and Transport Law Course 2021! We hope that, in spite of the packed schedule, you will find an opportunity to mingle, relax and enjoy some of the many wonders Dubrovnik has to offer.

President of Croatian MLA

Gordan Stanković

Secretary General

Igor Vio

PROGRAMME

Monday, 6 September 2021

Opening Ceremony: Welcome Addresses (09:00 – 09:15)

Gordan Stanković (Croatian Maritime Law Association)

Nada Bruer (Inter-University Centre)

MARITIME AND TRANSPORT LAW COLLOQUIUM

Session I:

INTERNATIONAL ORGANIZATIONS –MARITIME LAW CORNERSTONES (09:15 – 11:30)

Chair: Igor Vio

Aref Fakhry: International Maritime Organization – Activities with the Scope of Suppression of Maritime Corruption

Laura Carballo Piñeiro: Social Protection of Seafarers - the Case of the European Union

Maja Markovčić Kostelac: EMSA – Achievements, Challenges and Strategy for the Future

Discussion (11:15 – 11:30)

COFEE BREAK (11:30 – 12:00)

Session II:

JUDICIAL SALE OF SHIPS (12:00 – 14:15)

Chair: Zuzanna Pepłowska-Dąbrowska

Ann Fenech: Judicial Sale of Ships – Work in Progress

Juan Pablo Rodríguez Delgado: UNCITRAL Instrument on Judicial Sale of Ships – Recent Developments

Petar Kragić – Diana Jerolimov: Judicial Sale of Ships - International Comity v. Sovereign Control

Final Discussion and Conclusions (14:00 – 14:15)

WELCOME RECEPTION: *Inter-University Centre Courtyard (14:15 – 15:45)*

SIGHTSEEING – Guided Walking Tour of Dubrovnik Old Town (16:00 – 18:00)

Tuesday, 7 September 2021

LEGAL ASPECTS OF DIGITALIZATION IN INTERNATIONAL MARITIME TRANSPORT

Chair: Juan Pablo Rodríguez Delgado

Session A: AUTONOMOUS SHIPS – LEGAL REGIME (10:00 – 11:00)

Massimiliano Musi: The Phenomenon of MASS and Liability Channelling Issues: Deepening of the Possible Regulatory Approaches at International Uniform and National Levels

Discussion (10:45 – 11:00)

COFFEE BREAK *(11:00 – 11:30)*

Session B: ELECTRONIC DOCUMENTS AND DIGITAL TRANSFORMATION OF TRANSPORT (11:30 – 12:30)

Patrick Vlačič: New Developments in Digitalization of Documents in Maritime Transport

Discussion (12:15 – 12:30)

LUNCH *(13:00 – 14:00)*

MARITIME AND TRANSPORT LAW COURSE – MASTERCLASS I *(14:00 - 17:00)*

TRANSPORT OF PASSENGERS – CARRIER'S CIVIL LIABILITY

Iva Tuhtan Grgić: Liability Issues of Passengers' Sea Carriage under International and European Legal Regimes

Discussion (15:00 – 15:15)

COFFEE BREAK *(15:15 – 15:45)*

Zuzanna Pepłowska-Dąbrowska: Transport of Passengers – Civil Liability of Carrier in the Regulation (EC) No 261/2004

Discussion (16:45 – 17:00)

Free evening – individual sightseeing

Wednesday, 8 September 2021

TRANSPORT LAW DE LEGE FERENDA 2021

Session I: RECENT DEVELOPMENTS OF TRANSPORT LAW (09:00 – 11:00)

Chair: Achim Puetz

Mišo Mudrić: The EU Law on Drones

Shengnan Jia: The Nature and Validity of "Bill of Lading" Issued by China-Europe Railway Express: From Chinese Perspective

Elena Orrù: The Development of Transport Infrastructures in the EU States under the EU Digital Strategy and the Green Deal within the Constraints of the EU State Aid Policy

Discussion (10:45 – 11:00)

COFFEE BREAK (11:00 – 11:30)

Session II: MARITIME LAW – CONTEMPORARY TRENDS (11:30 – 13:30)

Chair: Massimiliano Musi

Zuzanna Pepłowska-Dąbrowska: Concept of a Ship in the Recent National Codifications of Maritime Law

Pia Rebelo: Environmentally Sound Ship Recycling through Contract Governance: The Limits of the RECYCLECON

Albano Gilabert Gascón: Ship Manager's Liability Insurance

Discussion (13:15 – 13:30)

LUNCH (13:30 - 14:30)

MARITIME AND TRANSPORT LAW COURSE - MASTERCLASS II (14:30 – 17:15)

Juan Pablo Rodriguez Delgado: Arrest of Ships in International Conventions and Spanish Law

Discussion (15:30 – 15:45)

COFFEE BREAK (15:45 – 16:00)

Achim Puetz: Contracts for Carriage of Goods by Sea in the Spanish Maritime Navigation Act of 2014 - Jurisdiction and Arbitration Clauses

Discussion (17:00 – 17:15)

SIGHTSEEING: Cable Car to Srđ - Dubrovnik Panorama (17:30 - 19:30)

Thursday, 9 September 2021

SHIPPING AND SHIPBUILDING INDUSTRY – LEGAL ISSUES

Session I: RECENT DEVELOPMENTS IN SHIPPING LAW (09:00 – 11:45)

Chair: Petra Amižić Jelovčić

Achim Puetz: Ship Management Agreements

Julia Constantino Chagas Lessa: Cross Border Insolvency in the Shipping Industry

Giovanni Marchiafava: New Developments in Cybercrime in Shipping

Vincenzo Battistella: Time Charter Party for Accommodation Support Vessels – ASVTIME

Discussion (11:30 – 11:45)

COFFEE BREAK *(11:45 – 12:15)*

Session II: SHIPBUILDING AND SHIP FINANCE – LEGAL ASPECTS (12:15 – 13:45)

Chair: Axel Luttenberger

Zoran Tasić: Ship Finance - Who Is to Be Served First: Bank or Charterer

Francisco Torres: Protection of Intellectual Property in Ship Construction

Discussion (13:30 – 13:45)

LUNCH *(13:45 – 14:45)*

MARITIME AND TRANSPORT LAW COURSE - MASTERCLASS III *(15:00 - 18:00)*

CIVIL LIABILITY FOR OIL POLLUTION OF THE MARINE ENVIRONMENT

Zuzanna Pepłowska-Dąbrowska: Legal Regime in the CLC & Bunker Convention Compared to the OPA 90

Discussion (16:00 – 16:15)

COFFEE BREAK (16:15 – 16:45)

Iva Tuhtan Grgić: Case Law Related to the Oil Pollution from Ships

Discussion (17:45 – 18:00)

Free evening – individual sightseeing

Friday, 10 September 2021

CONTEMPORARY MARITIME LAW – NEW CHALLENGES

Session I:

COVID-19 PANDEMIC AND ITS IMPACT TO MARITIME INDUSTRY (09:00 – 11:15)

Chair: Iva Tuhtan Grgić

Aref Fakhry: Pandemic and Maritime Law

Julia Constantino Chagas Lessa: Impact of COVID-19 in the Shipping Industry

Marija Pijaca: COVID-19 Pandemic and its Consequences to Repatriation of Seafarers

Discussion (11:00 – 11:15)

COFFEE BREAK *(11:15 – 11:30)*

Session II: CURRENT TRENDS IN CROATIAN MARITIME LAW (11:30 – 14:00)

Chair: Adriana Vincenca Padovan

Petra Amižić Jelovčić: Pilotage – Legal Framework in Croatian and Comparative Law

Božena Bulum: Supply of Technical-Nautical Services in the Croatian Public Ports with Particular Reference to the Issue of Self-Handling of These Services by Carriers

Axel Luttenberger: Crimes against the Marine Environment

Igor Vio: Contract of Towage in the Croatian Maritime Code

Discussion (13:45 – 14:00)

LUNCH (14:00 – 15:00)

MARITIME AND TRANSPORT LAW COURSE - MASTERCLASS IV *(15:00 – 18:00)*

Adriana Vincenca Padovan: Compulsory Wreck Removal under Croatian and Italian Law

Vesna Polić Foglar: Uncertainty Concerning Liability for Gross Negligence in the Contracts of Carriage and its Insurance in Switzerland

Marija Pospišil: Impact of CMA CGM Libra on Allocation of Risk in a Maritime Adventure and P&I Cover for Unrecoverable General Average Contributions

Discussion (17:45 – 18:00)

CLOSING CEREMONY (18:00 – 18:15)

Dinner – Old Town (20:00)

Saturday, 11 September 2021

SIGHTSEEING TOUR (10:00 – 14:00)

COURSE DIRECTORS AND ORGANIZERS

Petra Amižić Jelovčić, PhD
University of Split - Faculty of Law
Split, Croatia

Petra Amižić Jelovčić is Full Professor of Maritime and Transport Law, at the Faculty of Law, University of Split. She was born in 1979. She graduated from the University of Split Faculty of Law in 2002, and then completed post-graduate course in the Maritime Law and Law of the Sea and received a Master's degree in 2005 (*Collision of Ships*). She was awarded PhD degree in 2007 and her doctoral thesis is entitled *Maritime Carriage of Nuclear Material*. Petra Amižić Jelovčić has been working at the Faculty Law in Split since 2005, first as research assistant from 2005 till 2009 when she became an assistant professor. From 2012 till 2018 she works as an associate professor and is a vice-head of Department of Maritime and Transport Law. She is an author of many scientific journal papers and of two scientific books; "Maritime Carriage of Nuclear Material with a Special Reference to Liability for Nuclear Material" (2010) and "Croatian Coast Guard – Legal framework" (2017). She is a vice-president of Croatian Maritime Law Association.

Massimiliano Musi, PhD
Alma Mater Studiorum University of Bologna
Department of Sociology and Business Law
Bologna, Italy

Massimiliano is Senior Research Fellow with tenure in Navigation Law at the Department of Sociology and Business Law at the *Alma Mater Studiorum* University of Bologna. From August 2019 to August 2021, he covered the same role at the Faculty of Law of the University of Teramo. In 2020 he obtained the National Scientific Qualification (*Abilitazione Scientifica Nazionale*) to serve as Full Professor of Navigation Law in Italian Universities. In the academic years 2016/2017 and 2017/2018 he was Adjunct Professor in Air Law at the School of Engineering and Architecture, University of Bologna, Campus of Forlì. He was awarded four Research Fellowships at the *Alma Mater Studiorum* University of Bologna from 2015 to 2018. He has been named expert both in Maritime Law and in Transport Law at the University of Bologna since 2008, and in September 2012 he was awarded the Ph.D. in European Transport Law. He has also been Lecturer at many higher education courses, Masters and Ph.D. courses and he held some lessons at the European Parliament for the Directorate for Legislative Acts. He has been invited to participate as a speaker in more than 60 national and international Conferences, over the years he has organized Summer Schools, Conferences and International Research Seminars at the University of Bologna, at Ravenna Campus and at the Port Authority of the Northern Adriatic Sea (Venice and Chioggia) and has taken part in research groups both at international and Italian level. Since 2015 he is Member of the *Associazione Italiana di Diritto Marittimo* (AIDIM) and since 2019 of the *Associazione Italiana di Diritto della Navigazione e dei Trasporti (AIDINAT)*. In November 2015 he was appointed as member of the S*tanding Committee* of the *Y*CMI and of the *Committee for the Ship Nomenclature*, inside the *Comité Maritime International* (CMI), Since 2014 he is General Secretary of the Editorial Committee of the Review "*Il Diritto Marittimo*" ("Class A" Journal according to the ANVUR classification) and since 2016 of the book series "*Il Diritto Marittimo - Quaderni*". Since 2016 he is Executive Editor of the "International Transport Law Review" and since 2017 he is a member of the Editorial Board of the Croatian Journal "*Comparative Maritime Law*". He is Member of the International Propeller Clubs - Port of Bologna, of which he has been Secretary from 2015 to 2020. Massimiliano wrote four monographs, more than 60 articles and case comments and edited seven collective volumes, related to the matter of Maritime and Transport Law.

Zuzanna Pepłowska-Dąbrowska, PhD
Nicolaus Copernicus University in Toruń
Law and Administration Faculty
Toruń, Poland

Zuzanna Pepłowska-Dąbrowska, PhD, is an assistant professor at the Commercial and Maritime Law Department of the Law and Administration Faculty at the Nicolaus Copernicus University in Toruń. Between 2015 and 2019 she was a member of the Polish Codification Commission for Maritime Law. She is a vice president of the Polish Maritime Law Association, a member of the Maritime Law Commission's board of the Polish Academy of Sciences and an arbitrator in maritime disputes. In 2017 she has been awarded a scientific grant by the Polish National Science Center for the research dedicated to the problems of contemporary maritime codes. She is an author of many publications in the field of maritime law in Polish and English, including Codification of Maritime Law (Informa Law from Routledge 2020) and Maritime Safety - A Comparative Approach (Informa Law from Routledge 2021) (both as a co-editor and contributor). She has conducted her research in multiple maritime law centers, including Swansea, Southampton, Oslo, Cadiz, Castellon de la Plana and New Orleans (the latter one as Fulbright grantee).

Gordan Stanković, PhD
Vukić & Partners
Rijeka, Croatia

Gordan Stanković studied law at the University of Rijeka Faculty of Law. He obtained LL.M. degrees from the law faculties of Split, Croatia and Southampton, UK, and a Ph.D. degree from the law faculty of Split. He was a Fulbright visiting scholar at the Tulane Law School in New Orleans, Louisiana, US. He is the author of 'Limitation of Liability for Maritime Claims', and 'Maritime Liens and Mortgages', co-author of the chapter on Croatia in Kluwer's International Encyclopaedia of Laws - Transport Law, and a co-editor of 'Maritime Environmental Law: A Handbook of Selected Laws and Regulations'. He has been involved in the drafting of the Croatian Maritime Code as a member of the working group on registration of ships, liens and mortgages, as well as the working group on judicial sales of ships and ship arrest. He was also participating in the preparation of the CMI Draft International Convention on Foreign Judicial Sales of Ships and their Recognition. He is the president of the Croatian Maritime Law Association.

Iva Tuhtan Grgić, PhD
University of Rijeka - Faculty of Law
Rijeka, Croatia

Iva Tuhtan Grgić is Assistant Professor at University of Rijeka, Faculty of Law, where she teaches Maritime and Transportation Law, Marine Environment Protection Law and Administrative Maritime Law. She got her PhD degree in civil law and civil law procedure from the University of Zagreb, Faculty of Law. She spent several research periods at the Max Planck Institute for Comparative and International Law in Hamburg, Germany and at European University Institute in Florence. With her presentations in various national and international conferences and round tables she worked constantly on dissemination of her research results. She is author of numerous papers in the field of civil law and maritime law, with main points of her interest in property law, legal status of maritime domain and its usage. As an expert for maritime domain, she is also member of the Expert Committee for drafting of the new Law on Maritime Domain and Seaports and serves as ad hoc legal adviser to the business sector. She worked on several projects as a member of research teams, dealing with legal aspects of transformation of social ownership, concessions on maritime domain and nautical tourism. She is a Vice President of Croatian Maritime Law Association, a member of Croatian Comparative Law Association and Croatian Transport Law Association.

Patrick Vlačič, PhD
University of Ljubljana
Faculty of Maritime Studies and Transport
Portorož, Slovenia

Patrick Vlačič was born in 1970 in Slovenj Gradec in Slovenia. He finished the Faculty of Law of University of Ljubljana, masters, at Faculty of Law of University of Split (Croatia) and PhD again at Faculty of Law in Ljubljana in 2005. He worked at the Supreme Court as a judicial trainee and passed bar exam in 1998. From then to present is a professor at the Faculty for Maritime Studies and Transport of University of Ljubljana. He was also director of small international airport, Aerodrom Portorož d.o.o. Between 2008 and 2012 he was a Minister of Transport in 9th Government of Republic of Slovenia. At the moment he is associate professor, and he lectures maritime law, commercial law, civil law, transport law and insurance law. He is also practising law, especially in area of transport and insurance. He is author or co-author of seven books and many articles. He is also a musician and plays bass guitar in bands since year 14. He speaks Slovenian, English, Italian, Croatian and Serbian.

Igor Vio, PhD
University of Rijeka
Faculty of Maritime Studies
Rijeka, Croatia

Igor Vio is teaching courses in Maritime Law, Law of the Sea, and Transport Insurance at the University of Rijeka - Faculty of Maritime Studies. As a visiting lecturer he has delivered courses at the IMO IMLI in Malta, IMO IMA in Trieste, and International Ocean Institute at Dalhousie University in Halifax, Canada. His legal education includes LL.B. degree at the University of Rijeka Faculty of Law, LL.M. in Ocean and Coastal Law at the University of Miami School of Law, LL.M. in the Maritime Law and Law of the Sea and Ph.D. degree in Maritime Law from the University of Split Law Faculty. As a UN fellow he spent one year in the United States and worked at the United Nations Office of Legal Affairs in New York City. Igor Vio has published papers covering various fields of the international law of the sea and maritime law. He was the editor of the volume “Maritime Code of the Republic of Croatia and Recent Developments in the Area of Maritime and Transportation Law” and member of the working group for drafting amendments of the Maritime Code. As an invited speaker he participated with presentations at various national and international conferences. He is the Secretary General of the Croatian Maritime Law Association and a Titulary Member of the CMI.

COURSE LECTURERS AND TRANSLAWFER SPEAKERS

BIOGRAPHICAL NOTES

Vincenzo Battistella, LLM
Alma Mater Studiorum – University of Bologna
Department of Legal Studies
Bologna, Italy

Vincenzo Battistella is a Doctoral Researcher in Maritime Law at the Department of Private Law of the Autonomous University of Barcelona UAB (Spain) in co-tutorship with the Department of Legal Studies of Alma *Mater Studiorum* – Università di Bologna, (Italy). Vincenzo is currently an Adjunct Professor in Maritime and Port Law at the Department of Legal Studies of the University of Bologna, Campus of Ravenna and is also an academic tutor of the Master in Maritime Law, Port and Logistic at the University's Department of Legal Studies. He was a visiting researcher at the Centre for Enterprise Liability of the University of Copenhagen, Faculty of Law in 2018, where he focused his studies on liabilities matters related to the offshore contracts. Vincenzo is a regular speaker at national and international seminars and conferences in English, Spanish and Italian and he is the author of several research articles and contributions to collective works, both in maritime and transport law. He is the secretary of the "*International Transport Law Review"* ITLR, and a component of the Board of Assistants of "Il Diritto Marittimo". He is a member of the Italian Maritime Law Association and of the Spanish Maritime Law Association.

Božena Bulum, PhD
Adriatic Institute
Croatian Academy of Sciences and Arts
Zagreb, Croatia

Božena Bulum is Scientific Advisor at the Adriatic Institute of the Croatian Academy of Sciences and Arts. In 2003, she passed the Bar Exam. She gained her LL.M. in 2005 (thesis: "Time charter in modern maritime practice") and Ph.D. in 2008 (thesis: "Regulation of maritime transport services and access to port services market in the competition law of the European Union") from the Faculty of Law in Split. Her current research interests include, in particular EU transport law and maritime transport law. As an expert in these fields, she was a member of the Expert Committee for drafting of the new Maritime Domain and Seaports Act and also a member of the Expert Committee for the Croatian Maritime Code amendments (2011, 2013, 2015 and 2019). She speaks at international and Croatian conferences on Maritime and Transport Law. Božena has participated as a member of the research teams on scientific projects financed by the Ministry of Science and Croatian Science Foundation. She is a board member of the Croatian Maritime Law Association and a founding member of the Croatian Competition Law and Policy Association. She has published one academic monograph, several book chapters and number of academic and professional papers.

Laura Carballo Piñeiro, PhD
World Maritime University
Malmö, Sweden

Professor Laura Carballo Piñeiro is the Nippon Foundation Chair of Maritime Labour Law and Policy at the World Maritime University. She joined WMU in February 2018. Prior to joining WMU she worked at the Universities of Vigo and Santiago de Compostela in Spain, where she was Associate Professor of Private international law and developed her expertise in private international law, international litigation, international insolvency and maritime law. She is admitted to practice as a lawyer and has worked as a deputy judge in Spain. As a Fellow of the Alexander von Humboldt Foundation, she has specialized in international maritime labour law being her research published in 2015 by Springer at the Hamburg Studies on Maritime Affairs Collection edited by the International Max Planck Research School for Maritime Affairs at the Hamburg University. Professor Carballo has published in a number of international journals in English, German, Italian and Spanish. She has been visiting fellow at the Max Planck Institute for Comparative and Private International Law, Columbia Law School, the Institute of European and Comparative Law at Oxford University and UNCITRAL, and she has taught in a number of institutions in Europe and Latin America such as the Hague Academy of International Law, the Central European University, the Universities of Antioquia and Medellín in Colombia and the Central University of Venezuela.

Aref Fakhry, PhD
World Maritime University
Malmö, Sweden

Aref Fakhry is Associate Professor at the World Maritime University in Malmö. He is an experienced educator, adviser and advocate in maritime law and policy. His strengths lie in the areas of shipping, maritime security and marine environmental law. He is currently involved in cross-industry campaigns aimed at tackling corruption in the maritime industry. He is also leading projects in digital maritime applications. Prof. Fakhry is engaged in enhancing maritime interests across the Middle East and North Africa.

Ann Fenech, PhD
Fenech & Fenech Advocates
La Valetta, Malta

Ann Fenech is the head of the marine litigation department at Fenech & Fenech Advocates. She is the past Managing Partner of the firm having occupied the position of Managing partner from 2008 to 2020. She qualified in 1986 and joined Holman Fenwick and Willan in London. From there she moved to Chaffe McCall Phillips Toler and Sarpy in New Orleans. On joining Fenech & Fenech, she created the marine litigation department. She has dealt exclusively with maritime issues for the past 34 years ranging from salvage to charterparty disputes and from towage to enforcement of mortgages. She lectures at the University of Malta and the International Maritime Law Institute and is a regular guest speaker at overseas maritime fora. She is the President of the Malta Maritime Law Association and a board member of the European Maritime Law Organisation since 2008. In 2012, 2014 and 2015 she was awarded Best in Shipping Law at the European Women in Business Law Awards held in London. From 2000 to 2010 she was the Chairman of the Pilotage Board and responsible for the drafting of the Pilotage Regulations 2003. In 2013 she was appointed Honorary Patron of the Malta Law Academy. In 2014 she was elected to the Executive Council of the Comité Maritime International (CMI). She was one of the founding members of the Malta Maritime Forum in 2015. She is currently the co-Chair of the CMI international working group on the International Recognition of Judicial Sales and CMI Co-Ordinator of the project at UNCITRA and a member of the CMI IWG on Arrest of Ships. In October 2018 she was awarded the Honorary Membership of the Croatian Maritime Law Association. In November 2018 she was elected Vice President of the CMI.

Albano Gilabert Gascon, LLB
Institute for Transport Law
Jaume I - University
Castellón, Spain

Albano Gilabert graduated in Law from Jaume I-University, Castellon, in 2017, obtaining the outstanding career award. In 2019, he completed his post-graduate studies in Legal Practice and passed the State Examination for Access to the Legal Profession in 2019. Currently, he is a Ph.D. student at both Jaume I-University of Castellon and Alma Mater Studiorum – University of Bologna under the supervision of Prof. Achim Puetz and Prof. Anna Masutti. He prepares his thesis on insurance clauses in shipping contracts. He is a member of the Institute for Transport Law and the Transport Law research group, both at Jaume I University, as a research scholar. He has also presented several papers related to his field of research and he has written different articles in scientific journals and book chapters on marine insurance law.

Diana Jerolimov, LLB
Croatian Maritime Law Association
Zadar, Croatia

Diana Jerolimov graduated from the Law Faculty of University of Zagreb. She joined the Croatian largest ship owning company where she specialised all aspect of shipping law. Mrs. Jerolimov was president of the Legal Committee of Croatian Chamber of Shipping and a member of working group for drafting Croatian maritime law. She was in the CMI drafting committee for the Rotterdam Rules and a member of the Croatian delegation to UNCITRAL and Croatian shipowners' delegation to ILO. She is a member of the Croatian Maritime Law Association and author of a number of articles on maritime law topics and is a speaker at maritime law conferences. Mrs. Jerolimov is involved in writing commentary to the Croatian Maritime Code.

Shengnan Jia, PhD
Tahota Law Firm, China
China-Europe Commercial Collaboration Association, London, UK
China University of Political Science of Law - School of Juris Master, Beijing, China

Shengnan Jia received a full scholarship and was awarded the degree of PhD in Commercial Maritime Law by City, University of London. The topic of her thesis is *The Impact of Secured Transactions Law on the Shipowner's Contractual Security in the Chartering Industry: Common and Civil Law Perspectives.* Before pursuing PhD, she obtained her Bachelor of Laws (LL.B) and her first Master of Laws (LL.M.) degree from the Graduate School of the Chinese Academy of Social Sciences, majoring in Civil Commercial Law in China. In addition, she completed a second Master's (LL.M.) degree from Lund University and World Maritime University in Sweden, studying toward a combined degree in Maritime Law in 2013. She has founded two journals: Journal of Transnational and Chinese Maritime Law (ISSN 2634-4777) and Journal of Transnational and Chinese Commercial Law (ISSN 2634-8209). She has been appointed to an Expert of Advisory Panel for China Council for Promotion of International Trade as UNCITRAL Observer on Judicial Sale of Ships; an Arbitrator at Hainan International Association Court, China; an Arbitrator at LMAA; a Consultant and Arbitrator, at Energy Dispute Arbitration Centre, Ankara and an Arbitrator of Caspian Arbitration Society, Geneva.

Petar Kragić, PhD
Croatian Maritime Law Association
Zadar, Croatia

Petar Kragić obtained LLB, LLM and PhD in maritime law from the Law Faculty of Split University, Croatia, and has spent his 40 years professional career as in house lawyer for the Croatian largest ship owning company and had opportunity of getting experience in all aspects of shipping law. He was the president of the Croatian Maritime Law Association from 2000-2018 and chairman of the legal committee of Croatian Chamber of Shipping, and also Director in a leading international insurance company UK P&I Club 1994 – 2009, in SiGCo (international provider of guarantees for oil pollution liability), and in an international investment fund. Dr Kragić participated in the CMI Drafting Committee for the Rotterdam Rules and was a member of the Croatian delegation to the UNCITRAL (including working groups for the Rotterdam Rules and for Judicial Sale of Ships) and ILO. He is the titulary member of the CMI. For a number years he has been a member of the drafting committee for the Croatian maritime law. He is the author of a legal textbook Tanker Charterparties, number of articles on maritime law topics and is involved in writing commentary to the Croatian Maritime Code. He is a regular speaker at maritime law conferences.

Julia Constantino Chagas Lessa, PhD
Rio de Janeiro, Brazil

Julia Constantino Chagas Lessa has completed her PhD in Maritime Law at City, University of London. Julia has lectured commercial and Maritime Law for many years at the University of Westminster and University of East Anglia and finally at Erasmus University of Rotterdam, where she was an Assistant Professor and Academic Coordinator of the LLM Commercial and Company Law. Recently, Julia moved back to her home country where she set up her own consultancy law firm and is currently working in setting up a maritime law course. Julia is involved in numerous academic activities, being the board member of the German American Maritime Institute, one of the executive editors of the International Transport Law Review, an executive member of the London Universities Maritime and Policy Group and a member of the Cross-Border Insolvency and Commercial Law Group. She regularly speaks in academic and industry conferences, having published articles in several renowned academic law journals.

Axel Luttenberger, PhD
University of Rijeka
Faculty of Maritime Studies
Rijeka, Croatia

Axel Luttenberger is a full professor with permanent tenure at Faculty of Maritime Studies of the University of Rijeka. He got his Bachelor of Law degree at the University of Rijeka - Faculty of Law, and became Master of Law and Doctor of Law at the University of Split Faculty of Law. He passed the Bar examination and has long lasting practice in marine insurance business as legal attorney and legal advisor. He has experience in local government and government public service having been the City Mayor of Opatija and Member of Croatian Parliament. He has published four books and over hundred academic papers. His main activities are teaching maritime, commercial and environmental law at various university and vocational programmes.

Giovanni Marchiafava, PhD
University of Genoa
Department of Economics
Genoa, Italy

Giovanni Marchiafava has been involved in research activities in Navigation and Air Law since 2000. In 2006 awarded a Ph.D. in Navigation and Air Law at "Sapienza" University of Rome, and in 2008 a LL.M. in Maritime Law at the University of Southampton (UK). In 2009-2011 awarded a Research Fellowship of Navigation and Air Law at "Sapienza" University of Rome. In 2017 obtained the Associate Professor National Scientific Qualification. In 2017-2021 lecturer of Transportation Law and academic coordinator of the Jean Monnet Module "Transportation Law and Court of Justice of the European Union" (TLCJEU) at the Department of Legal Sciences, "Sapienza" University of Rome. Currently is a Fixed-term Assistant Professor of Navigation and Air Law at the Department of Economics and member of the board of directors of the Italian Centre of Excellence on Logistics, Transport and Infrastructures (CIELI), University of Genoa. Author of a monograph, several articles and case notes. In 05-07/2018 and 08-09/2019 visiting researcher at the Centre of European Law, King's College London (UK). In 01/2020 visiting researcher at the Centre de Droit Maritime et Océanique, University of Nantes (FR). Other memberships: 2000, member of the editorial board of the law review, "Diritto dei trasporti"; 2001 and 2003, member of the Transportation Legal Studies Institute (ISDIT) and the Italian Maritime Law Association (AIDIM), respectively; 2017, member of the International Working Group of the Comité Maritime International (CMI) on Cybercrime in Shipping; 2021 member of The International Propeller Clubs - Port of Genoa; 2004, member of the Italian Bar Association.

Maja Markovčić Kostelac, LLM
European Maritime Safety Agency
Lisbon, Portugal

Ms Maja Markovčić Kostelac holds a Master of Legal Science degree in Maritime Law. She has over twenty years of experience in the maritime field in both the public and private sector. Prior to assuming the position of Executive Director of EMSA on 1 January 2019, she served at various positions in the the Croatian Ministry of the Sea, Transport and Infrastructure as an advisor, head of the Department of International and Legal Affairs, Head of the Department of Navigation Safety, Acting Director of the Maritime Administration and Head of the Sector for Maritime Navigation, International and Legal Affairs, and finally as the State Secretary in the Ministry. She has participated as a member or head of the Croatian national delegations in numerous diplomatic conferences, meetings of the International Maritime Organization and the International Labor Organization, co-chaired the Conference of the Parties to the UNCLOS Convention, participated in the preparation and negotiation of bilateral international agreements in the field of maritime affairs, as well as in the negotiations for the accession of the Republic of Croatia to the European Union in the field of maritime affairs (Chapter 14 and Chapter 21). She was involved in the preparation of Croatian maritime legislation (especially in drafting the Maritime Code, the Maritime Domain and Seaports Act, the Ships and Ports Security Act and a number of bylaws) as well as the legislative acts on ratification of international conventions in the field of maritime affairs. She is a member of the Croatian Maritime Law Association and the Maritime Scientific Council of the Croatian Academy of Sciences and Arts. She has lectured at the University of Zadar - Department of Maritime Studies, at the University of Zagreb Faculty of Law and at the University of Rijeka Faculty of Maritime Studies. She was also a visiting lecturer at the International Maritime Academy in Genoa and WMU in Malmö and has been a speaker at many professional and scientific conferences. She has published several professional and scientific papers in the field of international maritime law, safety of navigation and protection of the marine environment.

Mišo Mudrić, PhD
University of Zagreb
Faculty of Law
Zagreb, Croatia

Mišo Mudrić is associate professor at the Department for Maritime and Transport Law. He serves as an arbitrator at the Permanent Arbitration Court at the Croatian Chamber of Commerce, in domestic and foreign arbitration. He has obtained a PhD degree at the Faculty of Law, University of Hamburg, being a Scholar of the Max Planck Institute for Comparative and International Private Law in Hamburg. He serves as the Secretary General of the Croatian Association of Insurance Law, being a founder of the Association. He serves as the Vice President of Croatian Maritime Law Association. He is the executive editor of the international scientific and expert journal "The International Transport Law Review", Faculty of Law, University of Zagreb. He acts as a member of the CMI Working group on the "Reformulation of the Lex Maritima" and Working group on the "Maritime Law for Unmanned Ships", Comité Maritime International; Working group on the "Systems for Security Practitioners", European Commission, Migration and Home Affairs Directorate General, Innovation and Industry for Security, nominated expert, Republic of Croatia; and, Executive Committee and Associate, MARSAFENET project, Cost action IS1105. He has organized and co-organized around 10 international scientific and expert conferences, published over 60 publications (including two author monographies, and two monographies as a chapter author), held lectures at over 40 domestic and international scientific and expert conferences, prepared peer-reviews for a number of domestic and foreign publishers (monographies and journals), acted as a guest editor for domestic publications, and held a number of expert workshops.

Elena Orrù, PhD
Alma Mater Studiorum - University of Bologna
Department of Legal Studies
Bologna, Italy

Elena is Associate Professor of Maritime and Transportation Law at the Alma Mater Studiorum – University of Bologna, Department of Legal Studies. As a lawyer, she is a member of the Bologna Bar Association and is particularly focused on maritime, air and transport law, competition, State aids and antitrust law, international commercial contracts and international arbitration. She graduated in Law *summa cum laude* at the University of Bologna with a thesis in Transport Law, for which she received the Paolo Cagnoni Prize and the Rotary Prize. In 2007, she obtained her PhD in European Transportation Law at the same University. Elena lectures, both in English and in Italian, on International Sale and Shipping Contracts and Public Transport Law at the University of Bologna and in PhD and Master Courses both in Italy and abroad. She has been Visiting Researcher and Professor at foreign Universities (VUB, Nordisk Institutt for Sjørett, Westminster University London, University of Rijeka, "Aleksandër Xhuvani" University of Elbasan). Elena is a regular speaker at international and Italian conferences and the author of several books and articles. She has been member of several international and national research groups. In particular, she is currently a member of the Italian Research Project of National Interest (PRIN) on the PRC's Belt and Road Initiative and its inter-sectoral effects, with a specific focus on transport infrastructures (P.I.: Prof. Stefano Zunarelli, University of Bologna); of the international research project on 'Challenges in legal regulation of seaports considering application of the European Union law and national legal tradition'. (P.I.: Prof. Božena Bulum, Adriatic Institute of the Croatian Academy of Sciences and Arts, Zagreb) and of the international research project 'El transporte ante el desarrollo tecnológico y la globalización: nuevas soluciones en materia de responsabilidad y competencia' (P.I.: Prof. Mª Victoria Petit Lavall, Instituto de Derecho del Transporte, Universitat Jaume I, Castellon de la Plana). More information: *https://www.unibo.it/sitoweb/elena.orru2/en*

Adriana Vincenca Padovan, PhD
Adriatic Institute
Croatian Academy of Sciences and Arts
Zagreb, Croatia

Adriana Vincenca Padovan graduated in 2002 from the Faculty of Law, University of Zagreb, where she also obtained her PhD in 2011. She obtained her LLM degree in 2003 at the IMO International Maritime Law Institute (Malta). She is a senior research associate at the Adriatic Institute of the Croatian Academy of Sciences and Arts. From 2003 until 2010 she worked in the Marine Department of Croatia Insurance Co. In 2007/2008 she was assistant lecturer at the IMO/IMLI. She is a visiting lecturer at the Maritime and Transport Law Department of the Zagreb Law Faculty, where she has held the academic title of Assistant Professor since 2014 and of Associate Professor since 2020. Dr Padovan passed the Croatian bar exam in 2006, having completed an internship at the Municipal Court in Zagreb. She held a number of training seminars in transport insurance by the Croatian Insurance Bureau, where she is also listed as mediator at the Centre for Mediation of the Croatian Insurance Bureau. Dr Padovan takes part in the professional committees of the Croatian Ministry of the Sea, Transport and Infrastructure for the drafting of the maritime legislation. She is Vice-president of the Croatian Maritime Law Association and founding member of the Croatian Transport Law Association. From 2011 to 2013 she was a collaborator on the scientific research project of the Adriatic Institute "Croatian Maritime Legislation, International Standards and the EU Law" (Principal Researcher: Prof Vladimir Ibler, PhD) financed by the Ministry of Science. She was the principal researcher on the scientific research project ‘'Developing a Modern Legal and Insurance Regime for Croatian Marinas - Enhancing Competitiveness, Safety, Security and Marine Environmental Standards" financed by the Croatian Science Foundation from 2016 to 2019. She was a visiting scholar at the Legal Sciences Department of the University of Udine in October 2019 and at the Maritime Law Center of Tulane Law School in January 2018. She took part in the organisation of a number of academic seminars, conferences, round tables and workshops and published over 40 academic and professional papers and book chapters. She authored a book entitled “The Role of Marine Insurance in the Protection of Marine Environment from Ship-source Pollution” published by the Croatian Academy of Sciences and Arts.

Marija Pijaca, PhD
University of Zadar
Maritime Department
Zadar, Croatia

Marija Pijaca is assistant professor at the Maritime Department of the University in Zadar, Croatia, where she held lectures in several courses in the domain of maritime law and in course of commercial law at the Management Department of the University in Zadar. She graduated from the Faculty of Law of the University of Zagreb and after graduation enrolled in the Postgraduate Scientific Study of “Maritime Law and the Law of the Sea” at the Faculty of Law of the University in Split. During the Postgraduate Studies she showed interest in the majority of courses, especially in the matter of maritime property law. The postgraduate master’s degree studies at the Faculty of Law of the University of Split she finished with the thesis ”Contracts on Towing Operation at Sea“. She also finished PhD at Faculty of Law of the University of Rijeka with the thesis “Bareboat Charter”. She lived and worked in London for the British-Croatian Chamber of Commerce. From May 2017 to May 2019 she was an associate of the scientific project of the Adriatic Institute of the Croatian Academy of Science and Arts, titled ”Developing a Modern Legal and Insurance Regime for Croatian Marinas – Enhancing Competitiveness, Safety, Security and Marine Environmental Standards – DELICROMAR“. She is author and co-author of few scientific papers. Also, she is the author of a scientific monograph titled “Bareboat Charter”.

Vesna Polić Foglar, PhD
gbf Attorneys-at-law, Zurich, Switzerland

Vesna Polić Foglar read law and completed her post-graduate studies (in public and private international law and international relations) at the Faculty of Law, University of Zagreb, where she also obtained her PhD degree. At the beginning of her career, she was senior research associate at the Institute of Maritime Law in Zagreb. She has more than 20 years of experience as legal adviser in the field of transport insurance and in dealing with transport claims in some major insurance companies in Switzerland. Her specialty was dealing with major claims in the field of the liability of transport providers. She also provided legal support to the Underwriting and the Claims departments. She has significant experience in developing new insurance products as well as drafting the general conditions for insuring carrier's liability. She was also heavily involved in drafting general terms and conditions for road carriers. She has particular experience in relation to the liability of carriers (sea, inland waterways, and road) and freight forwarders in the international carriage of goods. Now she is of-counsel at gbf Attorneys-at-law in Zurich, Switzerland. She has delivered numerous papers and seminar lectures around the world. She has written a large number of articles and a book on the liability for damage caused by delay in the carriage of goods. She is member of various transport law and maritime law associations in Switzerland, Germany and Croatia.

Marija Pospišil, PhD
Standard P&I Club, Hong Kong Branch

Marija Pospišil graduated from Faculty of Law, University of Zagreb in 2003. She obtained her Master's Degree in 2004 from the IMO IMLI, Malta and in 2006, she graduated at the Faculty of Maritime Studies University of Rijeka obtaining the title of Maritime Transport Engineer. She obtained her PhD from the Faculty of Law University of Split in 2011, defending doctoral thesis titled 'Protecting and Indemnity (P&I) insurance in light of new maritime conventions' exploring the impact of compulsory insurance on the core principles of indemnity insurance. Since 2004 Marija has worked in IG P&I clubs in England and Hong Kong dealing with all types of P&I, FD&D and Strike & Delay claims. She has participated in numerous specialized seminars and symposia related to shipping and maritime law as well as CMI conferences, on a number of them as a speaker. She published various scientific and professional papers. In 2021 she published a monograph titled 'Protecting & Indemnity (P&I) insurance and compulsory insurance under international maritime conventions'. She is a member of the Croatian and Hong Kong MLA and co-founder of the non-profit association YPSN Hong Kong, founded to promote shipping and maritime law amongst younger generations.

Achim Puetz, PhD
Jaume I - University
Castellón, Spain

Achim Puetz obtained his Ph.D. (Law) from Jaume I - University, Castellon (2008), for which he received the outstanding doctorate award. Since September 2018 he has been an associate professor of commercial law at Jaume I-University. He has also lectured in Masters and PhD degree studies in Spain (Complutense University, Madrid; University of Jaén) and abroad (Université Catholique de Lille; Università degli Studi di Cagliari; Universidad de San Carlos de Guatemala; Alma Mater Studiorum – Università di Bologna). He is the author of the monograph "Derecho de vagones. Régimen jurídico-privado de la utilización de vagones de mercancías en tráfico ferroviario" (Madrid, 2012) and has co-authored the volume on Spain of the *International Encyclopædia of Laws – Transport Law* (The Netherlands, 2018). He has also published numerous research articles and contributions to collective works, both in transport matters and in other areas of commercial law (company law and corporate governance, antitrust and unfair competition law, insurance and factoring contract, insolvency law). He is currently the vicedean of the Degree in Law at Jaume I-University and holds the position of the academic secretary of its Institute for Transport Law (IDT).

Maja Radunović, LLM
Karanović & Partners
Podgorica, Montenegro

Maja Radunović currently works as an attorney at law in Montenegro, in cooperation with the regional law office Karanović & Partners. Before that she worked as a judicial advisor in the Commercial Court of Montenegro and as an external advisor to the Ministry of Traffic and Maritime Affaires - Directorate for Maritime Commerce. The areas of her interests are maritime, commercial and bankruptcy law. She obtained her Bachelor and Specialist degree at University of Montenegro – Faculty of Law Podgorica. She undertook LLM studies in International Maritime Law studies at the IMO-IMLI in Malta where she was awarded with the CMI Prize for Best Overall Student. Since then, she has been actively involved in maritime law, both from academic and practical perspective. So far, she has undergone numerous trainings, participated in conferences and seminars in the country and abroad, including the IFLOS Summer Academy organized at the International Tribunal for the Law of the Sea in Hamburg and the 2019 CMI Conference in Mexico City. Maja is a NIPPON Foundation Fellow, member of IMLI and IFLOS Alumni groups, member of the Association of Jurists of Montenegro and of the Committee of Young Jurists of Montenegro, where she performs the function of Vice President for Development Policy. At the moment, she is involved into establishing the Montenegrin Maritime Law Association.

Pia Rebelo, LLM
University of Hertfordshire
The United Kingdom

Pia Rebelo is a full-time lecturer in torts and commercial law at the University at Hertfordshire. She is also in the final year of her doctoral studies in maritime law with The City Law School, University of London. She obtained her LLB and LLM (Environmental Law) at the University of Cape Town and is an admitted attorney in the Cape High Court, South Africa. During her LLM, she participated in an exchange programme at the University of Maryland, USA. She has practical experience in the areas of family law, commercial law, High Court and Magistrates Court litigation, and wills and estates. She has a strong interest in environmental issues within the maritime sector and the private law aspects of the climate change and sustainable development agendas. Her current doctoral research looks at both public and private environmental regulation of the maritime sector and aims to analyse policy and legal solutions for green shipping. She has published work on green finance taxonomies for shipping, sustainable supply chain finance offerings, and the integration of green terms into shipping agreements.

Juan Pablo Rodriguez Delgado, PhD
Carlos III University
Madrid, Spain

Juan Pablo Rodriguez Delgado is Senior Lecturer of Commercial Law at the Universidad Carlos III de Madrid (Spain). He majored in Law and he got a PhD from Universidad Carlos III in 2015, for a thesis on the "Period of Responsibility of the sea carrier" (under supervision of Prof. Rafael Illescas and Prof. Manuel Alba). Juan Pablo is Lecturer at the Universidad Carlos III in several areas, both undergraduate and postgraduate, including Company Law, Commercial Contracts, Business Law for Entrepreneurs or Maritime Law. He is also the coordinator of several Master courses at the Universidad Carlos III and ISDE. Juan Pablo is currently the coordinator of the moot court competition Moot Madrid (www.mootmadrid.es) and the Law Summer School in Madrid (organized by Seattle University and Carlos III). He is also the coach of the university team at the International Maritime Law Arbitration Moot organized by Murdoch University (Australia). He has been fellow in several research stays, among others, at Tulane University (2010),

University of Southampton (2011, 2016), Fordham University (2012), UNIDROIT (2013, 2019) or University of Bologna (2020) and his research has benefited from different grants, among other from the Ministry of Economy, Industry and Competitiveness and Private Institutions. Juan Pablo has carried out several research stays, benefited from different grants, at international institutions in the field of private law, including the University of Southampton, Fordham University, UNIDROIT, Tulane University and the Universitá degli Studi di Bologna. His publications include the book "El periodo de responsabilidad del porteador en el contrato de transporte marítimo" (Marcial Pons, 2016) and numerous articles and books chapters, primarily in two areas: maritime law and commercial contracts. Juan Pablo Rodríguez joined is Of Counsel at the maritime law firm Albors Galiano and Portales.

Zoran Tasić, LLB
Dedicato Consulting
Zagreb, Croatia

Zoran Tasić is the Director of Dedicato Consulting. After graduating at the Law Faculty in Split Zoran's career has started at the same shipyard where he was involved in export shipbuilding contracts and shipbuilding finance for 8 years. In late 1980s, Zoran has joined Shipping Department of Stephenson Harwood, a City of London firm of solicitors where he worked on shipping finance and shipbuilding disputes for 15 years. In 2002, Zoran joined Ince & Co, another City of London firm of solicitors where he worked on shipping related matters for 2 years. Upon return to Croatia, he joined Raiffeisenbank Austria d.d. in Zagreb as a Deputy Head of Legal. In 2006, Zoran has formed Banking & Finance team at Zagreb branch of Anglo-Austrian law firm CMS Reich-Rohrwig Hainz, where he spent 10 years being involved in many projects in Croatia financed by international banks. Since 2014 until recently, Zoran was acting as a Consultant to the Management Board of Shipbuilding Industry Split, Croatia. Zoran is a listed Arbitrator in domestic and international disputes held at the Croatian Chamber of Commerce. He has spoken at many conferences and written articles on the international finance and shipbuilding matters.

Francisco Torres Pérez
University of Vigo
Vigo, Spain

Francisco Torres Pérez. Doctor of Law from the University of Vigo. Assistant Professor of Commercial and Maritime Law. Training in the field of maritime transport at the Jovellanos Center of the Maritime Rescue and Safety Society. Specialist in International Maritime Law from the ICADE - Spanish Maritime Institute and in Business Law from University of Vigo. Researcher in the Campus do Mar international PhD program at the University of Vigo. Permanent collaborator in the Insurance Section of the Journal of Transport Law.

COURSE LECTURES SUMMARIES AND ABSTRACTS OF PRESENTATIONS

MARITIME AND TRANSPORT LAW COLLOQUIUM

Session I: INTERNATIONAL ORGANIZATIONS – CORNERSTONES OF MARITIME LAW

Aref Fakhry:

International Maritime Organization and the Regulation of Maritime Corruption: Is It Really Worthwhile?

In this presentation, recent developments touching on the regulation and repression of maritime corruption will be showcased. The International Maritime Organization (IMO) has been bold but arguably slow at picking up on this issue. An IMO correspondence group is currently charged with the drafting of guidance for tackling the problem. This is taking place against the background of dramatic advances in the zero tolerance policies of shipping companies around the world towards bribery and facilitation payments. Several leading jurisdictions have over the past years made strides in the adoption of repressive legislation for bribery and facilitation payments; the repercussions on daily maritime trade remain unclear, however. There is a divide between North and South on how this issue should be tackled. The presentation will query the need for a *lex specialis* in maritime law for one of humanity's ubiquitous scourges, corruption.

Laura Carballo Piñeiro:

Social Protection of Seafarers - the Case of the European Union

In a world of competing flag States and short-term employment, enjoying the benefits provided by a social security system is a difficult, if not impossible, task for many seafarers. The Maritime Labour Convention, 2006, has abandoned the flag State principle in favour of the residence principle for that reason. This research addresses the implementation challenges of this approach by examining the European Union case where social security coordination among EU member States is based on solid structures. However, the system still relies on the flag State principle although a number of concessions have been made to the residence principle either by the in-force legislation or by the Court of Justice's case law. From a theoretical perspective, the research shows the advantages of the residence principle in terms of administrative efficiency and effectiveness, enhanced coordination between social security contributions and personal income tax in cross-border situations, and better use of State aid measures. However, and from a practical perspective, the benefits of the flag State principle lie in the fact that identifies the law of the habitual workplace and entitles the flag State administration to request payments to their social security schemes from shipowners. In other words, if the seafarer's country of residence is made responsible for his/her social security, difficulties arise for social security administrations to identify whether the seafarer is working and for whom. At EU level, the discussion is somehow ensued by the fact that all EU member States are highly coordinated regardless of which principle applies. Beyond this framework, and while similar problems arise as to abandoning the flag State principle, the residence principle seems better suited to provide seafarers with access to a social security scheme.

Maja Markovčić Kostelac:

EMSA – Achievements, Challenges and Strategy for the Future

As one of the EU decentralised agencies, EMSA has an important role to play in the implementation of the Commission priorities. The Agency's working environment reflects the initiatives launched by the EU in all policy areas related to the seas.

The Agency has been set up in 2002 with the objective to ensure a high, uniform and effective level of maritime safety, maritime security, prevention of, and response to, pollution caused by ships as well as response to marine pollution caused by oil and gas installations.

To achieve its objectives EMSA provides the Member States, the EFTA counties and the Commission with technical and scientific assistance in the development and proper implementation of the EU maritime legislation and by providing the national competent authorities with an array of services, tools, guidance and training to enable them to carry out their tasks in an efficient and cost-effective manner.

The Agency's new 5-year Strategy adopted in 2019 reflects the EU strategic priorities in the areas of maritime safety, security and environmental protection. The presentation will further elaborate on these topics.

Session II: JUDICIAL SALE OF SHIPS

Ann Fenech:

Judicial Sale of Ships – Work in Progress

The Draft Convention on the Effects of Judicial Sale of Ships known as the "Beijing Draft" is the result of a concentrated effort by various persons at the CMI to come up with an international convention which seeks to put order into an area of international trade which can lend itself to chaos and uncertainty. The premise is that it is fundamental that when a vessel is sold in a properly held judicial sale free and unencumbered, the purchaser's title is given proper effect worldwide. It is only that which guarantees the best possible price for the vessel ensuring that creditors of the vessel have the best chance of getting paid out of the proceeds, that the previous owner's title can be deleted and that the buyer's new title can be properly registered with the chosen flag administration. This draft started its life at UNICTRAL at the 51st Meeting of the General Assembly in June 2018, when the Commission decided that: "In support of the proposal, it was noted by the Commission that, that issue had the potential to affect many areas of international trade and commerce, not simply the shipping industry with several examples of that impact being provided." Since then and notwithstanding a global pandemic which has stultified so much international activity, there have been four meetings of Working Group V1 deliberating the details of the Beijing Draft and we are now in the 4th Revision of the Beijing Draft with the last revision being deliberated in Vienna in April of 2021. Aim of the presentation is to provide a general overview of the most important articles in the Draft Convention as they exist in the 4th Revision including the scope of application, procedure and notice of judicial sale, certificate of judicial sale and the international effects of judicial sale.

Juan Pablo Rodríguez Delgado:

The Conditions for a Domestic Judicial Sale of Ships to Have International Effect under the Scope of the UNCITRAL Draft Instrument on Judicial Sale of Ships

This intervention aims to tackle the Draft Instrument on judicial sale of ships that is currently being drafted in the UNCITRAL, mainly focused on the conditions for a judicial sale of a ship conducted in one State Party to have effects in another Contracting State (including "clean title" definition, the notion of ship, and some problematic aspects of the sale).

The lecture will be focused on the following topics: First, and as a matter of introduction, what is a Judicial Sale of ship, and which are the problems related to the sale and the background of the Draft Instrument, second, the most important changes and recent updates of the Draft Instrument; third, and this will be the nuclear part of the lecture, the conditions for a domestic judicial sale of ships to have international effect under the scope of the Draft Instrument, that is:

1.- The sale must be ordered, approved, or confirmed by a court in a Contracting State (or other public authority), either by way of public auction or by private treaty carried out under the supervision and with the approval of a court.

2.- The sale has been conducted under the law of that State of the judicial sale.

3.- The ship must be, at the time of the sale, physically within the territory of the State of judicial sale.

4.- The proceeds of that sale are made available to the creditors in accordance with the law of the State of judicial sale.

5.- The judicial sale confers clean title to the ship on the purchaser.

Lastly, deal with a controversial topic on bareboat charter interest and judicial sale of ships. In Spain, an amendment has been submitted to modify the maritime navigation act in this point in order to adapt it to the future Convention (a piece of evidence on Spain's interest in ratifying the Convention).

Petar Kragić – Diana Jerolimov:

Judicial Sale of Ships - International Comity v. Sovereign Control

The contemporary world is intertwined by economic and other relations that connect all parts of the globe, which must be regulated by law. As the globe is divided among numerus sovereign states that rule their respective territories by passing laws and judgements, there is a question how to regulate international relations, particularly the trade. It could be done in three ways. Either, (a) by submitting to an international court; or (b) through the international comity (a state recognises judgements passed by a court in another state that applied a governing law of its choosing); and (c) through international convention that would create rules for particular subject-matter, that request recognition of the judgements (based on that rules) passed by the courts of the states' parties to the convention. In the latest case the party states still want to preserve their sovereign prerogatives by making sure (a) that the convention protects the interests they consider important; and (b) by reserving the right of ultimately checking whether a judgement violates their public order. The presentation will deal with some examples of how in negotiations of the Instrument (Judicial sale of ships) some interests have been treated. Basically, the question is who we want to protect and how? The buyer – who wants a clean title over the purchased ship; the creditors – who need to be timely informed of the sale and be in position to protect their respective interests; the owner (enforcement debtor) – who has right on a fair procedure, free of fraud or mistreatment. In balancing protection of various interests, delegates to the UNCITRAL have to be practical in order to produce an operational legal instrument.

LEGAL ASPECTS OF DIGITALIZATION IN INTERNATIONAL MARITIME TRANSPORT

Massimiliano Musi:

The Phenomenon of MASS and Liability Channelling Issues: Deepening of the Possible Regulatory Approaches at International Uniform and National Levels

Now more than ever, in a new season, with peculiar and unprecedented features, in which the continuous advances of technology are revolutionizing the world of sea transport and the galaxy of realities connected to it in varying degrees, the law makers, to allow Maritime Law to keep up with the times and to maintain its prodigious and far-sighted regulatory effectiveness, often internationally uniform, are called upon to resort to a skilful balance between flexibility and rigidity. This approach is all the more necessary in relation to the phenomenon of the so-called “MASS” (Maritime Autonomous Surface Ships), whose growing success is largely due to the variety of uses to which they can be destined. The evolution we are witnessing is profoundly modifying the perception acquired up to now of the notion of ship and many questions have arisen about the advisability or otherwise of reconsidering the latter for the purposes of making the new forms of units subject to the domestic and international uniform Maritime Law, in order not to have to risk facing the consequences of a dangerous substantial regulatory vacuum. Since the human factor, albeit reduced, will continue to play a non-secondary role in the direction of remotely controlled operations or in the programming of driving systems, the liability in case of accidents will certainly not disappear, but it will only shift its focus from some subjects to others. In this context, the most crucial and complex challenge which both the policy makers, the subjects dealing with the interpretation of the norms and the scholars will have to face, is the one of identification of the subjects towards whom liability for the operation of a MASS shall be channelled and of the related applicable discipline, for which must be adopted criteria that are calibrated on the different type of figure involved, be it, for example, that of a remote controller or of a software designer. To that end, the activities to be performed are substantially two. Firstly, on a short-term time horizon, legislators and interpreters of the laws must be able to exploit the flexibility and ability to adaptation of the current multilevel regulatory framework to the new phenomenon of MASS, in order to verify and/or demonstrate its reliability in being capable of giving answers as certain, homogeneous and proportionate as possible to the interests of the stakeholders from time to time involved. Secondly (better, contextually) they shall start carrying out all the necessary adaptation and updating interventions at regulatory level.

Patrick Vlačič:

New Developments in Digitalization of Documents in Maritime Transport

The electronic bill of lading is slowly gaining acceptance as the main document in maritime transport. There are many reasons: the first is that the maritime industry is very traditional, the second could be described by the phrase “if it isn't broken don't fix it”, while the third reason, however, are the legal challenges faced by users of electronic bills of lading. The only "standardization" for electronic bills of lading that we know of now is that the system is approved by the International Group of P&I clubs. If the system does not have their check mark, then a P&I club will not pay for any damage resulting from the transport under such electronic bill of lading. Another standardization that has been emerging recently is the activity of DCSA (Digital Container Shipping Association). They have prepared draft DCSA bylaws intended for the use of electronic bill of lading service providers. The next big issue is interoperability between different service providers, e.g., when one user has created an electronic bill of lading with using one service provider and subsequent user is using the system of another service provider. There are still many challenges ahead, but the shipping industry seems to have decided to move the digitization process forward.

MARITIME AND TRANSPORT LAW COURSE – MASTERCLASS I

TRANSPORT OF PASSENGERS – CARRIER'S CIVIL LIABILITY

Iva Tuhtan Grgić:

Liability Issues of Passengers' Sea Carriage under International and European Legal Regimes

Given the international nature of transport, carrier's liability for death and personal injury of passengers as well as for loss or damage to luggage was traditionally regulated by international conventions and national laws, very often striving to be harmonised with international regime. However, the EU legislator was not satisfied with the level of protection guaranteed by the Athens Convention of 1974 to sea passengers at the international level, and consequently adopted two complementary instruments – Regulation (EC) No 392/2009 and Regulation (EU) No 1177/2010 making a major step forward in protection of different passenger's rights.

By virtue of Regulation (EC) No 392/2009, the relevant provisions of the Athens Convention of 2002 (which was not in force at that time) was adopted as its integral part and made them binding and directly applicable in all Member States. By doing so, the concept of maritime carrier's liability was changed, the limits of liability were raised and criteria for its calculation changed, while introducing compulsory insurance and right to direct action against the insurer of liability. Apart from rights granted by the Athens Convention of 2002, some additional rights were introduced by virtue of this Regulation. Adoption of Regulation No 392/2009 and the EU activity encouraged many EU Member States to ratify the Athens Convention of 2002 which led to its entry into force and represents big step towards unification of this subject matter.

Special legislation - Regulation (EU) No 1177/2010 - was adopted by the EU legislator concerning passengers' rights not granted by the international regulation in respect of distress and damages due to non-performance or delay of sea carriage and protecting the rights of disabled persons and persons with reduced mobility.

Zuzanna Pepłowska-Dąbrowska:

Transport of Passengers – Civil Liability of Carrier in the Regulation (EC) No 261/2004

The Regulation (EC) No 261/2004 is an example of the European instrument in the area of protection of the passengers' rights. The scope will be to briefly introduce the Regulation's main elements to provide a basis for thorough analysis of the chosen case law of the Court of Justice of the EU (CJEU). Specific attention will be given to those elements of the Regulation, which were under the greatest scrutiny of the CJEU, including: long delays and the right to compensation, extraordinary circumstances and other exemptions from the obligation of compensating a passenger, the right to reimbursement and to care. Case law analysis will include (but not be limited to): Cases C-402/07 and C-432/07 Sturgeon, Case C-11/11 Folkerts, Case C-549/07 Wallentin-Hermann, Case C-394/14 Sandy Siewert v. Condor Flugdienst GmbH, Case C-12/11 McDonagh, Case C-452/13 Germanwings, Case C-294/10 Eglitis-Ratnieks.

TRANSPORT LAW DE LEGE FERENDA 2021

Session I: RECENT DEVELOPMENTS OF TRANSPORT LAW

Shengnan Jia:

The Nature and Validity of "Bill of Lading" Issued by China-Europe Railway Express: From Chinese Perspective

Traditionally, a bill of lading, as a transport document, is simply employed in the maritime law domain while a consignment note serves the rail transport. One crucial difference between two transport documents is that the former is a document of title; but the latter is not, even if both can be regarded as receipts and evidence of the contract of carriage. It follows that the consignment note, like a sea waybill is never ever a negotiable instrument. However, since the first line of the China-Europe Railway Express, YuXinOu, as part of China's Belt and Road Initiative (BRI) commenced operations in 2011, the China-Europe Railway Express has developed rapidly. Accordingly, the traditional nature of the consignment note has been challenged. There are expectations in certain quarters of it becoming a document of title and acquiring a transferability function. The first judgment arising from a dispute over a railway 'bill of lading' was delivered by a Chinese court on 30 June 2020. It was held that such a railway 'bill of lading' could be regarded as a valid document of title with the attendant function of transferability. However, so far, no Chinese legislation or judicial interpretation has expressly provided for its legal nature and validity. Furthermore, a question arises as to whether the existing Chinese law has sufficiently provided a legal foundation for granting the consignment note the legal status, nature and validity of a railway 'bill of lading'. If there is such status, what is its nature? Under what circumstances is it valid? If the answer is negative, is it necessary to establish a railway 'bill of lading' system? This speaker will venture to address these questions in the presentation.

Elena Orrù:

The Development of Transport Infrastructures in the EU States under the EU Digital Strategy and the Green Deal within the Constraints of the EU State Aid Policy

The current global challenges that are particularly interesting the transport sector are digitalization, from the one side, and climate change, from the other. The improvement of ICTs in the transport sector plays indeed a key role in enhancing its competitiveness, but it has proved to be significant also for the achievement of more efficient and environmentally friendly transport and logistics services. Climate change itself is indeed one of the most important contemporary issues: in the EU itself, for example, transportation contributes for approx. 27% of total greenhouse gas emissions. At the global level, under the PRC's ambitious Belt and Road Initiative, both the aforementioned targets are included: in 2015 the 'Digital Silk Road' (DSR) was introduced for pursuing, among the others, the improvement of smart ports and interoperability of transport infrastructures, whereas the next year sustainability and climate change cooperation in the BRI were officially included in its framework. These two interconnected goals are the fundamental pillars of the current EU policies concerning transport and logistics services and the related infrastructures within the EU Digital Strategy and the European Green Deal. The lecture is meant to identify the current opportunities for the development of transport infrastructures. In this regard, particular attention will be paid to the EU policies and strategies, but also to the issues concerning the compatibility of the prospective projects with the existing EU rules on State aids.

Session II: MARITIME LAW – CONTEMPORARY TRENDS

Zuzanna Pepłowska-Dąbrowska:

Concept of a Ship in the Recent National Codifications of Maritime Law

For centuries the concept of a ship, being of central importance to maritime law, has not raised considerable concerns. However, the rapid development of technology which took place in the second half of the 20th century have led to the appearance of other forms at sea which are quite different from traditional ships. Their emergence and dynamic seizure of the sea space has somewhat surprised maritime law, especially when it comes to private maritime law which has struggled with the classification of those forms. This uncertainty as to their status has been apparent both in international maritime conventions, and at a national level. The aim of proposed paper is to discuss how the newest national maritime regulations approach the concept of a ship in this new 'state of play'. It will examine divergent attitudes to the notion of ship and their exclusive or inclusive character in terms of other offshore constructions adopted under the recent codifications or revisions of maritime codes in chosen jurisdictions.

Pia Rebelo:

Environmentally Sound Ship Recycling through Contract Governance: The Limits of the RECYCLECON

BIMCO's RECYCLECON contract provides a standardised document for the sale of vessels for recycling a vessel in 'a safe and environmentally sound manner consistent with the international and national law and relevant guidelines'. Although this is helpful in placing sustainability at the core of the parties' intention and binds them to the Hong Kong Convention, it cannot overcome some of the persistent legal problems presented by cash buying practices. More specifically, where a delinquent buyer does not abide by the environmental purport of the contract, there is limited recourse for sellers. Exerting strict control over the actions of the buyer following the sale of the vessel for dismantling and recycling is of utmost importance to the seller given the risks (financial, reputational, and legal) associated with harmful shipbreaking practices in developing nations. This presentation explores the limited legal remedies afforded by the RECYCLECON and explores ways in which recycling contracts can afford greater protection to the seller's interests.

Albano Gilabert Gascón:

The Assurance of the Ship Manager's Liability vis-à-vis the Shipowner

The ship management agreement has been defined as the professional supply of a single service or a range of services by a management company different from the vessel's owner. That means that the ship manager provides services to the shipowner according to agreed terms and in return for a remuneration. These services include, among others, technical management, according to which the manager assumes, inter alia, the obligation to keep the vessel in a seaworthy condition. Accordingly, if he does not fulfil his obligations, he could be liable to the shipowner for the damages caused to the ship. This potential liability gives the manager an insurable interest in the vessel. The present paper analyses the ship manager's liability for the damages caused to the vessel, as well as his insurable interests, the policy which shall cover such damages and the consequences on the rights of the shipowner or the subrogated insurer if damages to or the loss of the vessel is caused by the manager's negligence.

Petar Đurović - Maja Radunović:

Jurisdictional Issues in Relation to Forced Sale of Yachts in Montenegro

The recent practice in Montenegro has brought into attention the question of jurisdiction over the forced sale of yachts. Even though the national law clearly prescribes that the commercial court, as a court of special competence, has exclusive jurisdiction in enforcement and security proceedings against the ships, some courts of general competence attempted to establish the local jurisdiction over the yachts found within their territory. Moreover, some yachts were subject to forced sale in a regular execution procedure conducted by the public executor, not being a judicial body, without making any reference to the national law governing the forced sale of ships. Surprisingly or not, the reason behind such discrepancies in the practice can be traced to misinterpretation of a legal definition of a ship, i.e., perception of yacht as a vessel which does not fall under the definition of a ship and therefore not being subject to national laws governing the jurisdictional aspects of ships. The idea of the paper is to analyse the enforcement regimes as envisaged by Montenegrin general and maritime law, reveal their merging and conflicting points with respect to forced sale of ships, and finally, to give more detailed approach to legal determination of ship/yacht and implications in practice arising therefrom. The subject issue becomes even more important knowing that, due to the common legal heritage, there is a possibility that other former Yugoslav republics like Croatia and Slovenia already do or will face the similar issues in practice, especially in the era of emerging yacht and superyacht market.

MARITIME AND TRANSPORT LAW COURSE - MASTERCLASS II

Juan Pablo Rodriguez Delgado:

Arrest of Ships in International Conventions and Spanish Law

In this presentation, we will look at the very-well known maritime institution on “ship arrest”, focused on the ship arrest process in Spain (regulated by the 1999 Geneva International Convention on the Arrest of Ships, the Spanish Maritime Navigation Act -SMNA- and the rules contained in the Spanish Civil Procedure Act). The following sections will be briefly analysed during the presentation: First, the scope of application of the Geneva Convention (comparing the differences with the Brussels Convention 1952) and the SMNA: geographical and material application (kind of ships covered, flags of the ships) and the allegation that the ship may be arrested -both offending and sister ships-, etc.); second, the conditions for the arrest (*fomus boni iuris, periculum in mora*, sufficient guarantee, etc.); and lastly, some particularities of the process on the Spanish Courts.

Achim Puetz:

Contracts for Carriage of Goods by Sea in the Spanish Maritime Navigation Act of 2014 - Jurisdiction and Arbitration Clauses

Bills of lading frequently contain jurisdiction (or arbitration) clauses, which have traditionally been held to be valid even though they have not been accepted in writing by the shipper, since they conform to a usage the parties are or ought to have been aware of (Art. 25(1)(c) of the Brussels Ia Regulation). Nonetheless, the 2014 Spanish Maritime Navigation Act requires such clauses to be negotiated individually and separately, and they are only enforceable against the third-party holder of the bill of lading if he or she has accepted them specifically. In this context, it shall be analysed whether the special rules contained in the Maritime Navigation Act apply to clauses which confer jurisdiction on the courts of an EU Member State, on the one hand, and to clauses on choice of forum in favour of a jurisdiction to which the Recast Regulation does not apply, on the other.

SHIPPING AND SHIPBUILDING INDUSTRY – LEGAL ISSUES

Session I: RECENT DEVELOPMENTS IN SHIPPING LAW

Achim Puetz:

Ship Management Agreements

Under a ship management agreement, the ship manager undertakes *vis-à-vis* the owner to perform the legal and material acts that are deemed to be necessary to adequately administer all or some of the aspects involved in the operation of the ship (nautical, crew, commercial and insurance management). In the contractual sphere, to the extent to which the manager acts in the name of the owner, he should be regarded a mere agent of the latter, so that he should not be held liable for any breach by the principal of the agreements concluded with third parties. For its part, the solution as regards liability in tort depends on the applicable legal framework: while the owner and the manager are on occasions considered to be jointly and severally liable for the damage caused (e.g., under the 2001 BUNKER Convention), in other cases all liability is *ex lege* channelled to the owner (e.g., under the CLC Convention). In view of the multiple liability risks faced by the ship manager, both against the owner and third parties, special attention should be paid to insurance matters.

Julia Constantino Chagas Lessa:

Cross Border Insolvency in the Shipping Industry - Have We Acquired anything from Lessons Learnt from Hanjin's Shipping Bankruptcy?

In 2016, the Hanjin shipping bankruptcy caused turmoil in the shipping industry. The company then was the 7th largest container line in the word, and their vessels were around the word still performing charterparties when the company insolvency immediately followed by bankruptcy procedures started. Neither the world nor the shipping industry was prepared for such a collapse.

Hanjin's insolvency brought to light the problems of the bankruptcy of shipping companies of such magnitude. Shipping companies' assets, unlike regular companies, consists mainly of vessels which can at the time of its insolvency, as was the case, be anywhere in the world. To make matters more complicate, vessels can have maritime liens attached to them, such as crew wages for instances. Finally, it is common for shipping lines, such as Hanjin, to time charter vessels for long periods of time. Accordingly, not all the vessels sailing on behalf of the company are actually own by them. Indeed, ship arrest in case of insolvency procedures can be rather tricky.

The collapse of Hanjin brought fear not among shipowners only, but among every single ship industry stakeholder. Thus, some members of the ship industry sought contingency measures, not necessarily to solve the problem (as bankruptcy are often unavoidable) but to better handle it and offer the ship industry stakeholders an enhanced sense of security.

Furthermore, Hanjin was a group of companies. Thus, there were a mother company and South Korea and several daughter companies spread around the world. These daughter companies legally can be considered independent but truly what happened to them when the mother company collapses.

The study of Hanjin's bankruptcy can be considered of extreme importance since the ship industry is yet again facing another crisis.

This presentation, by using Hanjin Shipping as a platform for such scrutiny, intends to analyse all the intrinsic of insolvency in the shipping industry, its special features and problematic. The presentation will analyse some possible alternatives for the ship industry to provide an enhanced security to selected stakeholders (such as crew and cargo owners), as well as the possible downfalls of this mechanisms. It will analyse the new EU directives regarding insolvency and restructuring, as well as the recovery and resilience plan set up by the EU. Finally, the presentation shall cover aspects of cross border insolvency law in the ship industry while concurrently dealing with ship arrests, marine insurance, group of companies and maritime competition law.

Giovanni Marchiafava:

New Developments in Cybercrime in Shipping

Cyber-attacks and incidents related to cybersecurity has increased considerably in the recent years. Covid-19 pandemic has prompted the use of electronic resources and the Internet, increasing cybercrime activity. Cyber threat lies also in maritime industry that represents ninety per cent of the word trade. Pandemic sped up the digitalization process also in shipping, increasing the risk of cybercrimes. A cyber incident in maritime transport can have heavy commercial and logistic effects. It can also produce loss of life and environmental disaster. During the last years, several measures, unlike in the past, have been implemented to prevent cybercrime. This paper is devoted to examining recent national European and international legal instruments adopted by private and public bodies to counter cybercrime in shipping.

Vincenzo Battistella:

Time Charter Party for Accommodation Support Vessels – ASVTIME

The adequate development of both the oil and gas, and the renewable sectors requires a uniform set of contractual terms to govern the provision of services by specialist vessels needed to support these activities. Nowadays, a wide range of specialised offshore related contracts represents a significant and important part of BIMCO's standard forms, which to some degree meet this regulatory need. As a matter of fact, BIMCO's Documentary Committee, at the beginning of 2021, released new editions of some frequently used forms of contracts, namely TOWHIRE, TOWCON and BARGEHIRE as well as a new standard form charterparty ASVTIME to reflect the latest changes in maritime and offshore operations. Indeed, the introduction of BIMCO's standard Time Charter Party for Accommodation Support Vessel, codenamed ASVTIME, represents, with its tailormade provisions, a suitable contractual framework for parties operating in the renewable energy industry. The ASVTIME contract form is, in fact, a standard time charter party for accommodation services as well as other facilities available for charterers such as, among others, office spaces, warehouse and optional services such as gangways, cranes, offshore bunkering systems, daughter crafts and environmental measures. The author will try to provide a critical review of those provisions which might be considered to have a different legal interpretation. In this regard, it is noteworthy to point out, the provisions regarding the possibility for the charterers to make, at their expense, structural alterations to the vessel and those regulating the case of extended offshore operations.

Session II: SHIPBUILDING AND SHIP FINANCE – LEGAL ASPECTS

Zoran Tasić:

Ship Finance - Who Is to Be Served First: Bank or Charterer

Although it is very common in maritime industry that ships are chartered by their owners to various charterers or bareboat charterers and, at the same time, mortgaged to shipowners' banks as security for their lending, the relationship between the parties involved often gets complicated in case of shipowners' inability to perform. This presentation focuses on the rights of mortgagees and charterers (including bareboat charterers) and their rankings in case of mortgagor's default. Mortgagee's and charterer's rights primarily arise from ship mortgage agreements and charter agreements respectively, particularly of bareboat charter agreements, their respective registrations and applicable laws. This presentation also deals with typical defaults under the mortgage agreement (such as non-payment, breach of covenants, impairment of bank's security by the charterer, mortgagor's and/or charterer's exposing of the ship to maritime claims). Banks' position in case of a breach of charter agreement is often complex and it varies depending on applicable laws of the ship's flag, bareboat charter registration, international conventions on maritime liens and mortgages, *lex fori*. Mortgagee's rights in case of shipowner's or charterer's default often include right to arrest the mortgaged ship, to take possession of the ship and ultimately to sell her. However, such standard remedies available to banks differ under civil law and under common law. Charterer's rights in case of shipowner's breach of charterparty and mortgagee's in rem actions against the vessel are of particular importance. Such bank's rights are different in case of charter and in case of bareboat charter. For obvious reasons, interests of the parties involved are different and often require intervention of courts, particularly if their rights and obligations are not clearly defined in the mortgage agreement, charter agreement or priority agreement. Bank's position also depends on whether the charter have existed prior to financing and, if so, whether or not the bank had a knowledge of it.

Francisco Torres:

Protection of Intellectual Property in Ship Construction

The lecture will attempt to summarize the strengths and weaknesses of the European legal framework that relates to shipbuilding and industrial property rights –including a brief comparison with US legislation on the matter, the existence of confidentiality agreements and the references to such rights contained in existing construction forms.

Regarding the structure, in the presentation we identified two main thematic areas. The first is focused on the study and differentiation of those protection mechanisms (rights) that are used in the shipbuilding sector. Those conventions and regulations that allow such protection and their associated problems will be analysed. In the second part, we focus on the protection of the intellectual property that the clauses of the main ship construction contracts offer in practice.

MARITIME AND TRANSPORT LAW COURSE - MASTERCLASS III

CIVIL LIABILITY FOR OIL POLLUTION OF THE MARINE ENVIRONMENT

Zuzanna Pepłowska-Dąbrowska:

Legal Regime in the CLC & Bunker Convention Compared to the OPA 90

The scope of the lecture is to present an outline of the international legal regimes governing civil liability for ship source marine pollution as conceived by the CLC, Bunker and HNS Conventions. Introductory part will provide historical background and look into reasons for adoption of the CLC 1969 (and FUND 1971) conventions as the forerunner of other civil liability maritime conventions. The CLC/FUND 1992 regime will be analysed in details, explaining the scope of the CLC 1992 applicability and its basic concepts (ship, channelling of liability, pollution damage) and explaining the three pillars of the CLC 1992: strict liability of the shipowner, limitation of liability and compulsory insurance. The central part will focus on catastrophic damages caused by marine oil pollution and present CLC/FUND 1992 regime as a three-levelled compensatory system with shipowner and its insurer (1st level), FUND 1992 (2nd level) and FUND 2003 (3rd level), also providing analysis of the Funds liability. As for the 2001 Bunker Convention, the aim is to explain the underlying reasons for its adoption, as well as the basic concepts and focal elements of the liability regime, with special attention to differences between the CLC and BUNKER convention (liable person, limitation of liability). The final part of the lecture will analyse legal regime in the USA and their regional solution OPA 90 and explain why they remain outside of the CLC/FUND system. What is so different between the international conventions and OPA 90? Special attention will be dedicated to comprehensive scope of the Act, broad concept of pollution damage (including but not limited to environmental damage) and different approach towards the right to limitation of liability.

Iva Tuhtan Grgić:

Case Law Related to the Oil Pollution from Ships

Following an overview of the basic concepts of the CLC/Fund 1992 regime, the relevant case law interpreting its provisions will be analysed. Emphasis will be placed on the judgments and court holdings in a number of proceedings following the Erika incident, which occurred off the coast of France in 1999, and the Prestige incident, which occurred off the coast of Spain in 2002. A number of questions have been raised in those proceedings, for example: who can benefit from the channelling provisions, and especially can classification societies benefit from it; can classification societies benefit from immunity of jurisdiction if they act on behalf of the flag State; can the insurer of liability be directly liable above the limits of liability prescribed under the CLC/Fund 1992; can compensation be awarded for non-material damage and pure environmental damage, considering the definition of pollution damage in the CLC/1992 Fund regimes etc. Additionally, the question has been raised before the European Court of Justice as to the admissibility of claims for damages caused by oil spills under national laws harmonised with the Directive on waste and the polluter pays principle. Those cases also raised the question of adequacy of many standards and measures embodied in the international conventions and triggered numerous legislative changes at European and international level. As in both cases the maximum compensation limits granted under the CLC/Fund 1992 regime proved to be far too low to compensate all damages, it resulted with the creation of a Supplementary Fund, as a third tier of compensation for damages caused by oil spillages from oil tankers.

CONTEMPORARY MARITIME LAW – NEW CHALLENGES

Session I: COVID-19 PANDEMIC AND ITS IMPACT TO MARITIME INDUSTRY

Aref Fakhry:

The COVID-19 Pandemic and Maritime Law: Selected Issues

The topical impacts of pandemics on society have been picked up in sundry legal studies. This presentation tackles the perspective from maritime law, which is a large body of rules governing ship operations, both in public and private areas. An overview will be provided of some of the far-reaching repercussions on maritime law stemming from the COVID-19 pandemic. In the common law system, force majeure has to be specifically provided for in contracts, so the question that arose at the beginning of the pandemic would have consisted of fitting it into the relevant clause. If no clause existed, the only recourse would have been either some other clause referring to such an externality or the doctrine of frustration. The civil law addresses force majeure somehow differently by incorporating it as a feature of contractual obligations without the need to stipulate it. Insofar as certificates are concerned, it is noteworthy that the validity of certificates rests on timely renewal and periodicity of surveys. Insofar as the pandemic delayed or impeded such surveys, questions arose in relation with the provisions of international conventions governing the matter.

Julia Constantino Chagas Lessa:

Impact of COVID-19 in the Shipping Industry

The world has never seen a pandemic as the one caused by Covid-19. Although, often compared to the Spanish flu, the impact of Covid-19 can be considered to be far greater. The virus has disrupted trade and had a severe impact in the shipping industry, affecting the work of nearly 2 million seafarers worldwide, being particularly harsh in the cruise ship industry. The pandemic has greatly affected the ship industry, from charterparties which could not be complete to stranded seafarers as well as passengers across the world. It is to wonder how the ship industry has not collapsed all together. This presentation will analyse the impact of ship industry by analysing the non-completion of charterparties to port state control and the stranding of seafarers and passengers. The presentation will highlight not only the problems that occurred during the pandemic but also the measures putting in place by ship industry stakeholders that can be said to be the reason why the ship industry resists up to this date.

Marija Pijaca:

COVID-19 Pandemic and its Consequences to Repatriation of Seafarers

The reasons for differences in length of seafarers' employment contracts lie in the navigation characteristics of a particular branch of the maritime industry, in the difficulty degree and in the responsibility of seafarers in fulfilling work tasks. The maritime industry recognized these factors during normal navigation, but during the COVID 19 pandemic it was not easy to respond to challenges suddenly posed by the pandemic. One of these challenges relates to seafarers' repatriation and finding ways that allow seafarers to return to their homes after the expiration of their contract or to take up their duties on board. The list of procedures for maritime crew changes varies from port to port. In most regulations COVID 19 tests are mandatory, while the test result and other travel data must be visible in the so-called 'Fit for Travel' certificate. Certain countries require 'Stay Home Notice', in other words a quarantine for seafarers before embark and disembark, while some require all mentioned including the quarantine upon embark. In order to clarify regulations concerning seafarers' repatriation, the European Union contributed in facilitating crew changes and repatriation of seafarers adopting Guidelines on protection of health, repatriation and travel arrangements for seafarers, passengers and other persons on board ships, which prescribe that seafarers should be able to travel to the ports where they need to embark and be allowed to disembark and return home.

Session II: CURRENT TRENDS IN CROATIAN MARITIME LAW

Petra Amižić Jelovčić:

Pilotage – Legal Framework in Croatian and Comparative Law

Definition of pilotage varies from country to country. Some definitions are fairly general applying to all types of pilotage, while others define it or categorize it specifically. In the Republic of Croatia, maritime pilotage is classified pursuant to two criteria: the criterion of the area where it is conducted and the criterion of compulsoriness. Non-compulsory pilotage is regulated by the Croatian Maritime Code, while compulsory pilotage is defined by Ordinance on Sea Pilotage. The latest interventions to the Croatian Maritime Code were made in 2019, and one of the novelties, regarding marine pilotage, was explicit enumeration of ships that should be excluded from compulsory pilotage.

All pilotage, whether is compulsory or not, shall be conducted exclusively by a company having obtained authorisation for this activity. Foreign legal persons shall be granted by this authorisation solely if a domestic legal person cannot or is not interested in conducting pilotage. The requirements that shall be fulfilled in order to obtain sea pilot identity card are also prescribed by the Ordinance, as well as conditions that need to be met for Pilotage Exemption Certificate to be issued. Brief comparative overview of pilotage legislation in several EU countries will be also presented.

Božena Bulum:

Supply of Technical-Nautical Services in the Croatian Public Ports with Particular Reference to the Issue of Self-Handling of These Services by Carriers

The notion of technical-nautical port services covers the services, which are provided to vessels in ports for reasons of safety, security and environmental protection, in particular services of pilotage, towage and mooring. According to EU case-law Member States may classify technical-nautical port services as services of general economic interest under Article 106/2 of the Treaty on the Functioning of the EU and therefore organise the provision of these services according to model which is not competitive. Self- handling of a port service is occurring when a port user (a carrier), whilst using its own staff, directly provides for itself one or more categories of port services and consequently concludes no contract with the third party for the provision of such services. According to the relevant domestic regulations, technical-nautical port services in Croatian public ports are transferred to private sector. Port authorities have no role in providing any technical-nautical port services. In addition to that, for many years, some carriers self-handled mooring services for vessels carrying maritime coastal line traffic in Croatia. However, recently port authorities have started to provide mooring services themselves and to prohibit self-handling of these services to carriers. This caused resistance from the carriers who employ additional crew members for the provision of mooring services. We analyse the matters of market access and the organisation of the provision of technical-nautical port services according to EU and Croatian law. The first European Union secondary law act on market access to port services, Regulation 2017/352 establishing a framework for the provision of port services and common rules on the financial transparency of ports (Regulation 2017/352) regulates the issues of market access to technical-nautical port services only partially. Furthermore, the matters of self-handling of port services, including the ones of the technical-nautical character is not regulated by that Regulation. Self- handling of mooring services by the carriers is also not regulated by the Croatian port law. For that reason, besides the Regulation 2017/32, other relevant sources of EU and Croatian law are analysed and solutions *de lege ferenda* are proposed.

Axel Luttenberger:

Crimes against the Marine Environment

While the definition of environmental crime is not universally agreed, it is often understood as a collective term to describe illegal activities harming the environment and aimed at benefitting individuals or groups or companies from the exploitation of, damage to, trade or theft of natural resources, including serious crimes and transnational organized crime. Often perceived as 'victimless' and incidental crimes, environmental crimes against marine environment frequently rank low on the law enforcement priority list, and are commonly punished with administrative sanctions which are themselves often unclear and minor. Also, the definition of environmental crime depends upon the violation of national legislation implementing the environmental acquis. The reason for low number of detecting and reported crimes is in still insufficient activity of competent institutions whose task is detecting and reporting the crimes, although timely detecting and reporting of such criminal acts is indispensable for the purposes of prevention. Criminalizing an environmental offence can be an effective and dissuasive way to achieve proper implementation of environmental law. However, there are large differences between criminal sanctions provided for environmental offences and existing criminal sanctions are often not sufficiently stringent to ensure a high level of environmental protection. In author's view, proper relationship between criminal law and non-criminal law enforcement avenues is of utmost importance to achieve the objectives of environmental protection more effectively. Furthermore, compliance with environmental administrative law cannot always preclude criminal liability.

Igor Vio:

Contract of Towage in the Croatian Maritime Code

Since its adoption in 2004, the Maritime Code of the Republic of Croatia has been amended several times, with the last amendments in 2019 (Official Gazette, Nos. 181/2004, 76/2007, 146/2008, 61/2011, 56/2013, 26/2015, and 17/2019). However, among many significant changes in various chapters of the Code in the course of these fifteen years, the provisions related to the contract of towage, which are contained in the articles 634 – 642, have not been changed. The initial provision contains the definition of the contract of towage as a mutual agreement in which the tug operator undertakes to tow or push another ship or maritime object with his own ship to a designated place or for a specified period of time or to perform a particular operation, and the owner or the operator of the towed or pushed ship undertakes to remunerate the towage fees, which shall be established by the contract. Art. 636 determines the commencement of the towage at the moment 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 master, while towage ends when the last command of the tow's master to release the tow line has been performed or when the pushing or any other manoeuvre necessary for towage has terminated, whichever occurred last. Other provisions regulate the issues of the duty to maintain the seaworthiness of the towed craft, the compensation of damages caused by collision of the towed or pushed ships or by their collision with third ships, liability for damages of the cargo on the towed ship, right to a salvage award in cases when tug operator participates in salvage operations and situations in which Code's provisions on general average are applicable.

MARITIME AND TRANSPORT LAW COURSE - MASTERCLASS IV

Adriana Vincenca Padovan:

Compulsory Wreck Removal under Croatian and Italian Law

The purpose of the lecture is to analyse and compare the national rules of maritime law of Croatia and Italy regulating wreck removal as well as the provisions of the Nairobi Wreck Removal Convention 2007 (the WRC). Where necessary, we shall look into the preparatory works preceding the WRC and the national law solutions respectively. The study includes the analysis of the relevant Croatian and Italian case law and it also relies on the relevant legal writings dealing with wreck removal under Italian and Croatian maritime law, as well as under the WRC. The aim is to present, compare and discuss the existing legal regimes of wreck removal in Croatia and Italy and to suggest possible improvements in the interest of legal certainty and uniformity of maritime law rules that may come into play in case of a wreck affecting one or both of the Adriatic countries in question. In particular, we will deal with the sources of maritime law regulating compulsory wreck removal, the geographic scope of application of the legal provisions on compulsory wreck removal (including the national rules and the WRC), the status of the EEZ regimes of Croatia and Italy in the Adriatic Sea, the notion of a wreck in the context of compulsory wreck removal, the meaning of hazard in the context of compulsory wreck removal, the competent authorities and procedure, the owner's liability for wreck removal and insurance thereof and the real rights on the removed wreck.

Vesna Polić Foglar:

Uncertainty Concerning Liability for Gross Negligence in the Contracts of Carriage and its Insurance in Switzerland

The Swiss Code of Obligations differentiates between slight negligence as the lowest level of fault, gross negligence, and unlawful intent. The term wilful misconduct is not known, although Swiss courts have sometimes had to decide on this level of fault as well. Under prevailing doctrine and jurisprudence, it seems undisputed that the limitation of carrier's liability does not apply to damages caused both intentionally and gross negligently.

According to the CMR Convention, the carrier shall not be entitled to exclude or limit its liability or to shift the burden of proof if damage was caused by its wilful misconduct or by such default on its part as, in accordance with the law of the court or tribunal charged with the case, is considered as being equivalent to wilful misconduct. In other words, the acts equated with wilful misconduct must contain the elements of intent. If a carrier acts with gross negligence, it may act recklessly, but not with forethought, since it cannot be assumed that it consciously accepts to cause the damage. Gross negligence thus does not contain the element of contingent intent which would equate it to wilful misconduct.

In other European countries different trends can be seen. In some of them the courts set increasingly strict standards for the conduct of the carrier and the driver and tend to impose unlimited liability. In some other, minor grossly negligent conduct is excluded from the degree of fault equated to wilful misconduct.

However, some Swiss authors give plausible arguments that the legal liability of the carrier for damage caused by gross negligence remains limited to the full value of the goods, as provided for in the Code of Obligations. The main argument is that in the revision of the old Code of Obligations, a provision allowing claim for further damages when gross negligence was proven, was deleted without replacement. Whenever the legislator wanted to allow unlimited liability for gross negligence, he explicitly inserted a corresponding provision in the Code. However, when it comes to the liability of the carrier for damage to the goods in transit, or from delay in delivery, no such provision exists. There are also several other arguments in favour of the carrier's limited liability for damage caused by gross negligence.

Insurers cover the liability for gross negligence according to the terms and conditions. Basically, they assume that the carrier's liability for gross negligence is not limited. In most cases, if damage is caused by gross negligence, the insurer is entitled to reduce its performance in proportion to the degree of the fault.

Some Swiss courts of lower instances acknowledged the arguments in favour of the limited liability for gross negligence, some others did not. The Federal Supreme Court once confirmed the unlimited liability of a freight forwarder arising of a breach of contract but has not yet decided on the question of the limitation of the carrier's statutory liability in cases of gross negligence. If this Court once approves the well-founded arguments for limited liability, this will fundamentally change the questions of the carrier's liability and its insurance in this area.

Marija Pospišil:

Impact of CMA CGM Libra on Allocation of Risk in a Maritime Adventure and P&I Cover for Unrecoverable General Average Contributions

Since the beginnings of maritime transport there were tensions between the interests of cargo owners and carriers. Carriage by sea was considered an inherently risky endeavour or an 'adventure' and the carriers have utilized the privity and freedom of contract to exclude any responsibility for cargo, even if the loss or damage arose due to their fault or negligence. In the 19th century several countries started introducing legislation that would restore some balance, making such exclusions in contracts void. Since maritime transport is by its very nature international, the need arose to unify and clarify the position of both the carrier and the shipper. When Hague Rules were adopted, a bargain was struck between shipowning interests and cargo interests. Article III provides that shipowner must exercise due diligence to make the vessel seaworthy before and at the beginning of the voyage, whilst Article IV provides a number of defences which the carrier can use, amongst others, 'error in navigation and management of the ship'. The concept of 'seaworthiness' is therefore central when discussing carrier's liability and any changes in the interpretation of 'seaworthiness', or indeed the defences available to the carrier, can have a major impact on allocation of risk between the carrier and cargo owners. Indirectly such impact is also felt by the insurers of the parties, i.e., P&I Clubs and the cargo underwriters. The Court of Appeal decision in the CMA CGM Libra largely differs from the previous interpretations of these important maritime law concepts and has drawn the attention of the maritime industry.

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