

PILOTAGE – LEGAL FRAMEWORK IN CROATIAN AND COMPARATIVE LAW

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PILOT

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Introduction

- *Pilotage is the guidance of a waterborne craft by a competent person (pilot), and expert advice given to the master of the waterborne craft for safe navigation in ports, straits and other areas of internal waters and the territorial sea of the Republic of Croatia (art.68 CMC)*

- **The Maritime Code of the Republic of Croatia (CMC)**
- **Ordinance on Sea Pilotage (OSP)**

CMC provisions

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

- The criteria of compulsoriness:
 - Compulsory (mandatory) pilotage and non-compulsory (optional) pilotage
 - *the master of a ship must request pilotage services when pilotage is compulsory* (art.70, p.1 CMC)

- The maximum amount of remuneration for pilotage services shall be established by the Minister in a special regulation.
- Pilotage shall be available to any waterborne craft on equal terms

Non-compulsory pilotage

- Pilotage shall not be compulsory for the following:
 - a) Croatian warships, Croatian public ships, ships used for the maintenance of navigable waterways and facilities serving for the maritime safety on these waterways, water tankers, passenger ships in scheduled national service,
 - b) ships whose gross tonnage is under 500 t,
 - c) yachts whose gross tonnage is under 1,000 t

- Non compulsory pilotage terminates when called off by the piloted waterborne craft, or when it enters the area of compulsory pilotage, and the pilot is not authorised to conduct such pilotage (art.71 CMC)

- **PILOTAGE COMPANY;** pilotage in Croatia shall be conducted exclusively by a company having obtained authorisation for this activity (art. 70, p.5 CMC)
- Pilotage in the internal waters and in the territorial sea of the Republic of Croatia can be conducted by foreign legal persons only when they have special authorisation from the Ministry

- Conditions based on which the authorisation for conducting pilotage is issued, conditions and manner for the withdrawal of the authorisation, qualifications, authorisations and other conditions and requirements to be fulfilled by the pilot, the form, procedure and conditions for issuing a piloting card, requirements to be fulfilled by a company conducting pilotage, ways of marking pilotage ships and boats and positive pilotage signs, as well as the conditions and the procedure of conducting pilotage, limits, time and place of loading and unloading of the pilot for coastal pilotage, and their rights and obligations shall be established by the Minister (article 70, p.9. CMC)

Ordinance on Sea Pilotage

- determines compulsory (mandatory) sea pilotage in specific areas of internal sea waters and the territorial sea of the Republic of Croatia, the conditions that a trading company that performs pilotage activities shall meet, the professional qualifications, authorisations and other conditions and obligations that a sea pilot shall meet, the conditions for exemption from mandatory pilotage and the conditions and method of acquiring a Pilotage Exemption Certificate, the symbol and identity card of a sea pilot, the method of marking pilotage ships and boats and pilotage call signs

Compulsory pilotage

- Pilotage shall start or end on the border of the pilotage area at the moment when based on expert advice from the pilot, ship manoeuvring starts or ends
- Compulsory pilotage can take form of port pilotage and coastal pilotage

- The borders of compulsory (mandatory) pilotage, time and area of embarkation and disembarkation of the pilot shall be determined by:
 - the harbour master's office for port pilotage;
 - the minister for coastal pilotage

Compulsory PORT pilotage

- In a port where port pilotage is mandatory, the ship must be piloted even;
 - *if it is being transferred from one coast to the other,*
 - *if it is being moved along the coast using propulsion machinery or a tug boat,*
 - *or if the ship is being turned on the same berth with or without a tug boat*

- A ship with a gross tonnage under 2000, except for tankers and ships that transport dangerous or harmful substances, can be exempted from port pilotage for a certain period and in a specific port area, under the conditions that:
 - it is in every way capable of entering/leaving port,
 - the master has the Pilotage Exemption Certificate (PEC)

Compulsory COASTAL pilotage

- shall be provided to ships with gross tonnage 40 000 and above, transporting dangerous liquid chemicals or liquefied natural gases, and to the oil tankers
- The Master shall request the service of compulsory coastal pilotage at latest 24 hours before entering the area where coastal pilotage is compulsory and at least 6 hours before leaving this area

Pilotage company

- Port and coastal pilotage can be performed by a pilotage company with a proper approval from the Ministry, issued for the period of ten years
- The approval can only be issued to one pilotage company in the pilotage area which encloses the area of one or more harbour master's offices

Requirements

1. the required number of pilot vessels or boats;
2. the required number of VHF radio stations as well as the same number of portable VHF radio stations as the number of pilots;
3. the required number of pilots with valid sea pilot identity cards;
4. a concluded contract on ensuring the liability of a pilotage company during ship pilotage, at least in the amount of the basic fee envisaged by the tariff for the performed service of pilotage multiplied by the factor of 300.

The pilot shall refuse to pilot the ship if:

- 1) the draught is not appropriate for the sea depth in the place determined for berthing or anchoring of the ship, or if at the berthing location the conditions for the ship's safe berthing in the floating state are not ensured;
- 2) the ship is not capable of navigation or if it did not obtain the clearance to enter/leave port from the harbour master's office
- 3) If the Master insists on maneuver which jeopardizes safety of the ship, safety of navigation or marine environment

- The pilot shall without delay inform the VTMISS service via a VHF radio station or telephone, and the harbour master's office in written or by e-mail within 24 hours, of:
 - 1) violations of regulations committed by the piloted or other ship regarding ship, crew, passenger and cargo safety, and environmental protection;
 - 2) marine incidents caused or suffered by the piloted ship;
 - 3) all activities on the piloted or another ship that lead to or could have put at risk any of these ships, floating and other objects on the fairway or damage them, or an activity that led to environmental pollution;
 - 4) if the master of the ship to be piloted does not accept advice from the pilot regarding the upcoming pilotage;
 - 5) if he suspects that the master is under the influence of alcohol or other intoxicating substances

- During mandatory pilotage the pilot shall not leave the command bridge of the piloted ship before the pilotage is completed even if the master of the piloted ship does not accept his advice regarding navigation, manoeuvring, berthing and anchoring of the ship
- If the pilotage is not mandatory, the pilot shall stop the pilotage when asked to, by the master of the piloted ship

- The pilotage of a waterborne craft, whether compulsory or non compulsory, does not relieve the master of the ship of the duty to conduct the navigation and manoeuvre the waterborne craft and of the responsibilities resulting therefrom.
- The operator of a waterborne craft using pilotage services is responsible for the pilot's actions and failures in the same way as for the actions and failures of a crew member of his own ship

- The compensation of damages caused by the pilot to the operator of the waterborne craft using pilotage services shall be the responsibility of the company employing the pilot at the time when the damages was caused, up to the amount of the basic compensation stipulated by the rate for pilotage service rendered, multiplied by the factor of 300 if the responsibility for the damages has been proved to lie with the pilot.

Pilots

- Ship pilotage shall be performed only by persons with a valid sea pilot identity card
- The identity card of the sea pilot shall be issued by the harbour master's office to the pilot who holds a sea pilot certificate and a confirmation of being employed in a pilotage company
- The seapilot certificate shall be obtained by a person that has passed the pilot examination and meets the prescribed conditions

- The pilot examination can be taken by any person that:
- 1) possesses the ship master's certificate for a ship of 3000 GT or larger;
- 2) possesses the basic proficiency certificate for working on tankers, the certificate of competency as general radio operator and additional proficiencies required to obtain the certificate from point 1 of this paragraph;

- 3) has at least 12 months of seagoing service in the capacity of chief officer or ship master, after acquiring the certificate from point 1 of this paragraph, on a ship of over 3000 GT;
- 4) meets the prescribed health requirements for the deck department;
- 5) has at least 50 port pilotages for a specific port pilotage area, and at least 5 coastal pilotages for coastal pilotage, under authority of a pilot;
- 6) has an active knowledge of the Croatian language, if the person is a foreign citizen

Pilotage Exemption Certificate (PEC)

- the Pilotage Exemption Certificate (PEC) is the certificate exempting the certificate owner from the obligation using the services of mandatory port pilotage in a certain port, port basin and for a certain ship indicated in the certificate

- **For ships of 50 meters and above in overall length, the PEC is obtained by a person that:**
 - has a valid certification authorizing him to command the ship that can be exempted according to this Ordinance;
 - has at least 36 months of seagoing services in the capacity of ship master;
 - has a certificate of having active knowledge of the Croatian language, if the person is a foreign citizen;
 - has passed the examination for acquiring the PEC ;
 - carried out over the past two years, under surveillance from a pilot, entering into and leaving port at least 10 times each, on a ship and port basin for which the PEC is being requested;
 - is on the ship in the capacity of master of a ship for which the PEC is requested

Surveillance

- Surveillance over the performance of pilotage shall be carried out by navigation safety inspectors of the Ministry and harbour master's offices, as well as by other authorized employees of the Ministry and harbour master's offices, according to special authorization

Comparative overview of pilotage legislation in the EU

- Pilotage legislation (primary and secondary legislation)
- Definition of pilotage
- Legal structure of pilotage (public and private organizations)
- Compulsory pilotage (different criterion)
- The right to refuse (or abort) pilotage
- The relation between the pilot and the Master
- Exemption from pilotage
- Cross-comparison of the liabilities of pilots and the liabilities of Masters exempted from pilotage
- Dues