

CROATIAN REGISTER OF SHIPS – HISTORY AND LATEST UPDATES

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Over the years the system of registration of ships and mortgages in Croatia has passed through significant modifications, all of them made with the intention to ensure the attractiveness of the Croatian Register of Ships and boost the competitiveness of Croatian shipping.

With the latest 2019 Act on Amendments to the Maritime Code¹ (hereinafter: Amendments) the system of ship registration has completed its long development, from a complex court-administrative procedure to a simple and expeditious one. In the past, the system was organised through separate registers for respective types of maritime objects (craft). Eight Harbour Master Offices, located in eight Croatian ports, had jurisdiction for ship registration and for keeping the Register Books. The Amendments organised the Register as a unified and centralised register, kept in electronic form for all types of maritime objects (navigational, floating and fixed) and maritime objects in construction, excluding war ships and ships constructed for the Armed Forces of the Republic of Croatia or foreign armed forces. The shipowner or the operator or manager of a ship in international trade or the owner or charterer of a yacht of 24 metres or over in length sailing internationally can register a ship or yacht in any Croatian port regardless of the location of its principal place of business.

The concept of hypothec/mortgage was developed from “the contractual right of pledge on a ship” equivalent to the civil law hypothec, into the hypothec on a ship adopted in the 2004 Maritime Code, which confers upon the creditor the same rights as an English mortgage.

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¹ Act on Amendments to the Maritime Code, *Official Gazette*, no. 17/2019.

The recognition of documents in English eliminates the need for translation into Croatian formerly required for registration. Now, the procedure for the registration and deletion of ships and mortgages is simple and expeditious.

Keywords: *register of ships; hypothec; mortgage; criteria for registration; procedure for registration of ships; registration of hypothec and mortgage; jurisdiction of Harbour Master Offices; ship in international navigation; yacht in international navigation; enforceable document; electronic document; unified centralised electronic register of ships.*

1. INTRODUCTION

This article gives an overview of the historical development of the system of registration of ships and mortgages (hypothecs) on ships in the Republic of Croatia, and changes in creditors' rights provided by the hypothec, all aimed at making the Croatian Register an attractive tool for financing and operating ships.

2. REGISTRATION OF SHIPS

The procedure for the registration of ships and hypothecs, as prescribed by the Maritime and Inland Navigation Act of 1977 (a former Yugoslav Federal Act, taken over by the Republic of Croatia in 1991), was a combined court-administrative procedure under the joint competence of commercial courts and Harbour Master Offices.²

The Croatian Maritime Code of 1994 (hereinafter: Maritime Code 1994) essentially adopted the substantive maritime law of the former Yugoslavia with some amendments. The most significant one related to the registration system was the exclusion of the commercial court from the ship and hypothec registration procedure. According to Art. 268 of the Maritime Code 1994, a competent Harbour Master Office had jurisdiction for registration.³

According to Art. 210 of the Maritime Code 1994, seagoing ships were registered in the following registers of ships:

² The Maritime and Inland Navigation Act, *Official Gazette of SFRY*, no. 22/1977, see Articles 240, 291.

³ The Maritime Code, *Official Gazette*, no. 17/1994.

- Register of Merchant Ships;
- Register of Fishing Ships;
- Register of Ships in Public Service.

There was a separate Register of Ships under Construction.

The registration of ships belonging to Croatian citizens or legal entities was mandatory.

Ships under the ownership of foreign persons or foreign legal entities were optionally registered in the Croatian Register of Ships. Consequently, the Croatian Register could be considered an open register.⁴

Optional registration was provided for vessels owned by foreign natural persons or legal entities under the following conditions:

- i. if the bareboat charterer/operator (It. *armatore*) of a ship was a Croatian natural person or a legal entity with a principal place of business in the Republic of Croatia, provided the owner of the ship had given his/her consent for such registration; and
- ii. if the Republic of Croatia had control over the administrative, economic and technical matters concerning the ship, provided the registration was approved by the Ministry of Maritime Affairs.

A yacht, wholly or partly owned by a foreign natural person or legal entity, or a person without citizenship or a Croatian citizen with foreign residence, could be registered in the Croatian Register if it predominantly resided in territorial waters of the Republic of Croatia.

Under Article 196 of Maritime Code 2004,⁵ the following registers were added:

- Register of Yachts;
- Register of Yachts under Construction;
- Register of Floating Objects;
- Register of Fixed Off-shore Objects.

The 2004 Maritime Code recognised two kinds of registration:

- (i) Mandatory registration of ships and yachts wholly owned by Croatian natural persons or legal entities;
- (ii) Optional registration of ships wholly or partly owned by foreign natural persons or legal entities or citizens of the Republic of Croatia domiciled abroad, provided that:

⁴ Kačić, H.; Kačić, Z., *Registration of Ships and Hypothecs (Mortgages) in Accordance with Croatian Law*, Zagreb, 1996, p. 13.

⁵ The Maritime Code, *Official Gazette*, no. 181/2004.

- (a) the bareboat charterer/operator (It. *armatore*) or company⁶ of a ship was a Croatian natural person or legal entity with the principal place of business in the Republic of Croatia;
- (b) the owner of the ship had agreed to the request of the Croatian bareboat charterer; and
- (c) the registration of the ship under the full or part ownership of a foreign natural person or legal entity was approved by the Ministry of Maritime Affairs.

A yacht wholly or partly owned by a foreign natural person or legal entity or citizen of the Republic of Croatia domiciled abroad could be registered if it predominantly resided in the territorial waters of the Republic of Croatia.

In 2008 the Amendments to the Maritime Code were adopted which abandoned the concept of mandatory registration. In Article 27 of the 2008 Act on Amendments to the Maritime Code, only optional registration was retained, allowing registration regardless of whether the ship or yacht was owned by a domestic or foreign natural person or legal entity (domiciled in the EU or outside the EU) provided, as the only pre-condition, that the operator or *Company* (as defined under the ISM Code) was a legal entity with a place of business in the Republic of Croatia.⁷

The 2015 Act on Amendments to the Maritime Code introduced a new criterion for registration.⁸ A ship under the ownership of a legal entity outside the Republic of Croatia or outside the EU or EEZ can be registered in the Croatian Register of Ships if the ship-owning company is a subsidiary of a legal entity with a registered office in the Republic of Croatia, provided such an entity is a registered tonnage taxpayer in the Republic of Croatia.

Boats, unlike the other maritime objects, were separately registered in the Official Boat Listings. However, Article 190(1) of the Maritime Code of 2004 allowed a boat owner to register a boat in the Register of Ships provided the boat was used for the carriage of cargo, or in the Register of Yachts provided the boat was used for the transport of passengers or for sporting activities. Such boats, registered in the Register of Ships or Yachts respectively, were subject to the

⁶ The International Safety Management Code, IMO Assembly Resolution A.741(18) – 1993, Article 1.1.2: “*Company* means the owner of the ship or any other organization or person such as the manager, or the bareboat charterer, who has assumed responsibility for operation of the ship from the shipowner and who on assuming such responsibility has agreed to take over all the duties and responsibility imposed by the Code”.

⁷ The Act on Amendments to the Maritime Code, *Official Gazette*, no. 146/2008.

⁸ The Act on Amendments to the Maritime Code, *Official Gazette*, no. 26/2015, see Article 32.

articles of the Maritime Code regulating property rights for ships and yachts. Such re-registration enabled the boat owner to finance the acquisition of the boat against the mortgage over her, registered in sheet C of the Register Book.

By virtue of the Amendments, since 1 January 2020, all boats have been registered in the unified Register of Ships and are subject to the same property rights regime that regulates the registration of ownership and mortgages over ships and yachts. However, the application of the maritime liens regime on the boats is excluded. Such a solution seems unfortunate because boats (craft up to 15 metres in length) could cause the loss of life and personal injury and damage to property. Even though the claims might be substantial, and the boats quite valuable, claimants would not have the protection that maritime liens afford when yachts and ships are at stake. This outcome appears to be a result of the interpretation of the following rules. Under the general rule of Article 2 of the 2019 Maritime Code, its provisions pertaining to ships are applicable to other maritime objects (save to war ships), unless provided otherwise. As by the definition under Article 5(27), a boat is included under maritime objects. Boats are subject to maritime liens and mortgages, just as ships are. However, when it comes to the enforcement of maritime liens and mortgages created over boats, a procedural difficulty occurs.

A special provision of Article 841(3) of Section Nine of the 2019 Maritime Code entitled “Enforcement and security on ship and cargo” that regulates enforcement and security for maritime claims⁹ provides that the term “*ship*” for the purpose of Section Nine excludes boats (as defined in Article 5 of the 2019 Maritime Code). Therefore, this special rule explicitly excludes boats from the application of the 2019 Maritime Code’s procedural and jurisdiction rules when it comes to the enforcement of maritime liens and mortgages created over them, and prescribes (under Article 841(3)) that such a procedure shall be governed by the Enforcement Act, embodying general enforcement law. There is a historical reason for this solution, which is the intention to relieve commercial courts, otherwise in charge of maritime cases, from the burden of dealing with “small” claims ensuing from small craft of small value and not capable of inflicting serious damage. However, there are arguments against retaining such a “practical” approach. Firstly, the value of some boats (especially those close to 15 metres in length) has increased considerably, and in the meantime the law allows the registration of mortgages over them. The banks that finance the acquisition of boats secure their loans by mortgages. Secondly, boats (especially powerful speed

⁹ The Maritime Code, *Official Gazette*, nos. 181/2004, 76/2007, 146/2008, 61/2011, 56/2013, 26/2015, 17/2019, see Art. 841(3).

boats) could inflict serious personal injury and damage to property, claims which are secured by maritime liens. Therefore, it would seem appropriate to apply the procedural enforcement rules of the Maritime Code to boats, and assign maritime claims to the commercial courts specialising in maritime matters. This would allow the claimant to arrest a boat under the rules of the Maritime Code, which is more convenient than the counterpart measure of the Enforcement Act, and preserve the jurisdiction of the commercial court (in charge of maritime matters) in the event of the bankruptcy of the boat owner.¹⁰

3. REGISTRATION OF A HYPOTHEC / MORTGAGE AND ENHANCING THE RIGHTS OF CREDITORS

The Maritime and Inland Navigation Act of 1977 had a legal concept known as “the contractual right of pledge over a ship” – (in Croatian “ugovorno založno pravo na brodu”).¹¹ It was equivalent to the concept of the civil law hypothec (but the term hypothec was avoided for ideological reasons of the communist regime), which differed from the ship’s mortgage under English law. The contractual right of pledge over a ship could be enforced only by court (judicial) sale.

However, the purpose and function of both hypothec and mortgage are identical. The two legal concepts were developed to meet the need for financing the acquisition of ships, as both are reliable legal instruments for securing the repayment of loans.¹²

The Maritime Code 1994 introduced the legal term *hypothec on ship*. This originally continental concept of hypothec came closer to common law mortgage, in the sense that besides enforcement by judicial sale, the obligee (creditor/mortgagee) had the right to take possession of the ship and exploit it in order to recover the debt, provided such a right was stipulated in the Hypothec Agreement (Article 234).¹³

The enforcement of a hypothec over ships by sale had to be carried out through a court sale if enforcement was carried out in the Republic of Croatia.

If the hypothec over the ship was enforced outside the Republic of Croatia by legal proceedings in a foreign country whose domestic law did not recognise

¹⁰ *Ibid*, see Art. 853(2).

¹¹ The Maritime and Inland Navigation Act 1977, *op. cit.*, see Article 201.

¹² Kačić, H., *Deposetija broda kao atribut mortgage-a i ugovornog založnog prava*, UPPPK, No. 100/1983, p. 141

¹³ The Maritime Code, *Official Gazette*, no. 17/1994.

court sale, the creditor (mortgagee) was entitled to enforce the hypothec through a public sale of the ship, in conformity with procedural law governing public sale in the country where the ship was seized.

With the Maritime Code 2004, the hypothec over a ship became equal to the English mortgage, as it granted the same rights to the creditor. The mortgagee was entitled to enforce the mortgage by taking possession and exploiting the ship and/or by judicial sale and/or by private sale (Art. 219).¹⁴ If enforcement of the mortgage was exercised in a foreign country in accordance with foreign procedural law which does not recognise court sale, the mortgagee was entitled to the sale of the ship by public auction.

Under the Maritime Code 2004, some creditor rights could be excluded by the Hypothec Agreement (*opt-out*). This was contrary to the solution from the Maritime Code 1994, which provided that taking possession and exploiting the ship was allowed only if such a right was stipulated in the Hypothec Agreement.¹⁵

In Article 220(2) of the Maritime Code 2004, it was prescribed that a mortgage agreement certified by a public notary with the mortgagor's consent that the mortgagee may enforce the mortgage in the event of the mortgagor's default was an enforceable document, which entitled the mortgagee to enforce the mortgage without any additional legal approval. In other words, there was no need to prove to the public notary or to the court that default had occurred. Unfortunately, some Harbour Master Offices which kept the Register Books for the particular home ports required enforcement confirmation from the public notary. Article 220 of the 2019 Maritime Code, with effect from 1 January 2020, expressly makes clear that no enforcement confirmation is required,¹⁶ which harmonises enforcement procedures based on notarial acts.

4. JURISDICTION AND PROCEDURE

Before the Amendments entered into force, the Croatian Register of Ships was kept by Harbour Master Offices. Harbour Master Offices located in eight Croatian ports had jurisdiction for ships' registration and kept the Register Books over their respective areas. The shipowner, operator or manager of the

¹⁴ The Maritime Code, *Official Gazette*, no. 181/2004.

¹⁵ Marin, J., *Pravno uređenje hipoteke na brodu u Republici Hrvatskoj*, *Poredbeno pomorsko pravo*, Vol. 44. No. 159, 2005, p. 43.

¹⁶ The Maritime Code, *Official Gazette*, nos. 181/2004, 76/2007, 146/2008, 61/2011, 56/2013, 26/2015, 17/2019.

ship who had their principal place of business within such an area was subject to the jurisdiction of the respective Harbour Master Office.

There were eight ports of registry and the Harbour Master Office of each port kept a separate Register respectively.

For the first registration of a ship, the Harbour Master Office would issue a decree on registration in a relatively long and complex administrative procedure following an application for registration, accompanied by a long list of documents required under Article 315 of the Maritime Code.¹⁷

If a shipowner wanted to transfer the registration to another home port, he or she had to delete the ship from the Register Book in the current home port and thereafter re-register her in the Register Book kept by the Harbour Mater Office in the new home port. This was done through a separate administrative procedure for the transfer of registration, as prescribed in Article 291 of the Maritime Code.¹⁸

The Harbour Master Office for the new registration would open a folio in the Register Book. Upon registration of the ship, a Certificate of Registry was issued by the Harbour Master Office of the new home port.

The Certificate of Registry contained all data recorded in the Register Book. It consisted of three parts. In the first part – Sheet A, all particulars and technical characteristics of the ship were listed. In Sheet B, details of the shipowner were registered. If the bareboat charterer and the company were different from the shipowner, registration of the bareboat charterer and the company in Sheet B was obligatory. Sheet C contained information regarding encumbrances, the bareboat charter party, the time charter party, the pre-emption right and any other restrictions on the rights to dispose of the ship.¹⁹

5. LATEST DEVELOPMENTS

The Amendments deal with organisational and technical matters, while some of them introduce changes to substantive law.

The aim of the Amendments was to make the Croatian Register attractive to owners, registered bareboat charterers and financiers of Croatian registered vessels.

¹⁷ The Maritime Code, *Official Gazette*, nos. 181/2004, 76/2007, 146/2008, 61/2011, 56/2013, 26/2015.

¹⁸ *Ibid.*

¹⁹ Ordinance on the Manner of Maintaining the Registers of Maritime Craft and the Data Entered Therein, on Conducting the EOP Registration Procedure, on the Forms and on the Competencies of the Harbour Master Offices Regarding Registration, *Official Gazette*, no. 124/2015.

Currently, the Croatian Register is unified and centralised for the registration of maritime objects (navigational, floating and fixed off-shore) and maritime objects in construction, such as:

- Merchant ships;
- Fishing ships;
- Ships in public service;
- Yachts;
- Boats;
- Floating and fixed objects (off shore and shore).²⁰

Although the Croatian Register has been centralised, Harbour Master Offices have remained responsible for the execution of registration. Instead of eight Registers there is one Register with eight ports of registry.

The Register is kept in electronic form.²¹ Articles 384 a to 384 č of the 2019 Maritime Code regulate, *inter alia*, the electronic management of a centralised electronic register, the receipt of applications for registration in electronic form in the central information system, and the delivery of decrees of registration through public announcements on an electronic announcement board. Applications for the registration of a ship or mortgage are available in electronic form on the website of Ministry of Maritime Affairs. Pursuant to Article 278(2) of the 2019 Maritime Code, an electronic document required for registration, issued in accordance with the law regulating electronic documents, is considered equal to the original document. However, the implementation process of the e-register has not been fully completed. So far, supporting documents necessary for registration such as a Bill of Sale or Mortgage Agreement or Bareboat Charter Party in the form of electronic documents with an electronic signature are not yet in use. Instead of sending the supporting documents in electronic form, original documents still need to be physically delivered to the Registrar in paper form.

A special regime has been introduced for ships registered in international trade and for yachts of 24 metres or over in length,²² sailing internationally. Ju-

²⁰ Definitions of maritime objects, including ship, yacht, boat, floating object and fixed object, are contained in Article 5 of the Maritime Code, *Official Gazette*, nos. 181/2004, 76/2007, 146/2008, 61/2011, 56/2013, 26/2015, 17/2019.

²¹ *Idem*. See Article 196.

²² Definition of the term *large passenger yacht* is contained in Article 5, item 60 of The Maritime Code, *Official Gazette*, nos. 181/2004, 76/2007, 146/2008, 61/2011, 56/2013, 26/2015, 17/2019: “60. *large passenger yacht* is a yacht of hull’s length equal to 24 meters or over and is allowed to transport, in addition to crew, more than 12 but not more than 36 passengers.”

risdiction to issue a decree of registration in relation to the mentioned ships and yachts falls under the Harbour Master Office to which the application for registration was submitted, regardless of the place of business of the shipowner, operator, company or yacht owner/charterer.²³ This is an exception to the general rule that the application for registration of a ship or yacht has to be submitted to the Harbour Master Office located in the area where the shipowner, bareboat charterer, company or yacht owner/charterer has its place of business or domicile. For this category of ships and yachts, the registration decree has to be issued instantaneously and, in exceptional occasions only, at the latest within three days from the date of application.²⁴

Under the Amendments, the Ministry of Maritime Affairs acts as the general registrar and is competent for registration of this category of ships and yachts in international trade/navigation. The Ministry is responsible for the harmonisation of all Harbour Master Offices' activities and provides compulsory instructions in respect of the process of registration. It is also responsible for organising the attendance of the Register's representative at the closing meetings for taking delivery of ships (under the sale and purchase agreement) in foreign ports where he or she will issue to the ship and or yacht all original trading documents. The competence of the Ministry of Maritime Affairs for this category of ships and yachts is regulated by Article 254(10) of the Maritime Code of 2019 with effect from 1 January 2020.

Procedures for registration under the Amendments are easy and expeditious.

Under the previous law, a significant number of supporting documents had to be submitted for the registration of a ship, such as the decree on granting a name to the ship and the port of registry, an excerpt from the court register for the shipowner, a radio licence certificate, confirmation on the technical information on the ship, and confirmation that the ship is technically acceptable for registration, etc.

Currently, the list of supporting documents necessary for the registration of a ship has been significantly reduced, as most of these documents can be obtained by the Harbour Master Office *ex officio*.

A document for the transfer of the title to the ship would be accepted if notarised by a public notary, provided it contains basic elements of the underlying contract under which the ownership is transferred. There is no obligation to submit the contract itself.²⁵

²³ *Idem*. See Article 254(1), (2).

²⁴ *Idem*. Article 253(3); Ordinance on Maintaining the Register of Ships, Maximum Age and Technical Conditions for Entry in the Register of Ships, *Official Gazette*, no. 13/2020, Article 23.

²⁵ *Idem*. See Article 213(3).

Article 213(3) provides that the registration of transfer of ownership on the basis of the mentioned document is allowed as an exception. This was certainly not the intention of the original proposal. For the purpose of registration of the transfer of title, such a document for the transfer of title to a ship issued by the transferor, if certified by a public notary and containing the basic elements of the underlying contract, should be treated as equal to a contract of sale and purchase made between and signed by the transferor and transferee.

With Article 213(3), a standard bill of sale in English would be sufficient for the registration of the transfer of title, without a need for its translation into Croatian. This is an exception from the general rule for all other documents in a foreign language which are required to be accompanied by a translation into Croatian in Latin script. Apart from the bill of sale, a deletion certificate or confirmation in English from a foreign ship register that a ship has been deleted does not need to be translated.²⁶ Supporting documents to be submitted with the application for registration may be in English. The adoption of documents in English eliminates the need for their translation for registration purposes.

Under the Amendments, the form of the Certificate of Registry is in line with the certificates used in competitive registers. The particulars and technical characteristics of the ship and details of the shipowner, company and bareboat charterer are contained on a single page. The Certificate of Registry does not contain information on encumbrances, the bareboat charter party, the time charter party, the pre-emption right and any other restrictions on rights to dispose of the ship. To ascertain that the ship has not been burdened by encumbrances, an Excerpt from the Register Book should be requested.

6. CONCLUSION

Through a long period from late 1994 onward, Croatian maritime legislation has passed through significant reforms and transformation. Changes in national law, especially with regard to the concept of hypothec/mortgage (probably the most important innovation – the creditor's right concerning the private sale of a mortgaged ship and taking possession of the mortgaged ship), had the aim of establishing a legal framework to ensure that the Croatian Ship Register becomes attractive to shipowners, registered bareboat charterers, and financiers of Croatian registered vessels.

The driving idea for change over the years has been to offer international shipping banks the same security for the repayment of loans to which they are

²⁶ *Idem*. Article 282.

accustomed under Anglo-Saxon law. Flag of convenience registers, under whose flags most of the world's merchant fleet is registered, provide creditor rights in line with the Anglo-Saxon type of mortgage, or just as the Madeira open register does, and allow the parties to choose the governing law for the mortgage, which opened the way for the application of the Anglo-Saxon law. This means that the creditor, in the event of the debtor's default under the loan agreement, is entitled – beside judicial sale – to take possession of the ship and/or sell the ship by private sale. Under the classical continental hypothec, the creditor can only ask the court to sell the ship under a court's public sale.

The latest changes in Croatian maritime legislation with regard to the Ship Register, as introduced by the Amendments, have the aim of creating a modern and attractive Ship Register, which will provide a service to its customers (shipowners, bareboat charterers, lending banks) in a quality equal to that of the most competitive ship registers. To achieve this, it was necessary to: (i) reform the existing organisation of the Register; (ii) simplify the procedure for registration; and (iii) introduce an electronic register. The Ship Register is now unified and centralised for all maritime objects (craft). The procedure for registration has been simplified and has become expeditious. This has been achieved by: (i) reducing the documents required for registration; (ii) allowing supporting documents necessary for registration to be in English, thus eliminating the need for translation; (iii) providing an efficient certification service; and (iv) establishing an electronic platform for online registration.

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Sažetak:

HRVATSKI UPISNIK BRODOVA – POVIJESNI PRIKAZ I NAJNOVIJE IZMJENE

U članku se daje povijesni prikaz razvoja postupka upisa brodova (uz osvrt na upis jahti i brodica) i instituta hipoteke na brodu. Istaknuta je važnost razvoja hipoteke od koncepta ugovornog založnog prava, koje je vjerovniku omogućavalo pravo na naplatu svoje tražbine samo putem sudske prodaje broda, do hipoteke uvedene Pomorskim zakonikom iz 2004., koja se po sadržaju prava vjerovnika u cijelosti izjednačila s engleskim mortgage-om. Uvedena je tzv. javnobilježnička hipoteka koja se zasniva u postupku javnobilježničkog osiguranja tražbine. Pomorskim je zakonikom određeno da je ugovor o hipoteci, koji ispunjava sve zakonom propisane uvjete, ovršna isprava temeljem koje se može provesti ovrha. Zadnjim izmjenama Pomorskog zakonika iz 2019., ovrha na temelju takvog ugovora ili isprave o hipoteci može se provesti i bez potorde ovršnosti.

Postupak upisa brodova i hipoteka u početku je bio složen upravnosudski postupak. Pomorskim zakonikom iz 1994. ukinuta je nadležnost trgovačkih sudova u postupku upisa.

Do izmjena Pomorskog zakonika iz 2019. godine pomorski objekti upisivali su se u zasebne upisnike, i to prema vrsti pomorskih objekata i prema sjedištu lučkih kapetani-

ja. Tako su se brodovi upisivali u upisnik brodova kod lučke kapetanije nadležne prema prebivalištu odnosno sjedištu vlasnika broda. Brodovi i jahte u gradnji upisivali su se u posebne upisnike brodova odnosno jahti u gradnji.

Članak navodi kriterije za upis brodova koji su se tijekom razdoblja od donošenja prvog hrvatskog Pomorskog zakonika do zadnjih izmjena Zakonika mijenjali.

Cilj je zadnjih izmjena Pomorskog zakonika iz 2019. bio osuvremenjivanje upisnika brodova kako bi upis broda u hrvatski upisnik bio učinkovit te da bi zadovoljavao potrebe vlasnika brodova, poslovođa, brodarar i financijskih institucija. U organizacijskom smislu, to se postiglo uvođenjem jedinstvenog upisnika za sve pomorske objekte. Novina je poseban status uveden za brodove u međunarodnoj plovidbi i jahte dužine 24 i više metara u međunarodnoj plovidbi za čiji je upis, kao i za upis hipoteka na njima nadležna lučka kapetanija kojoj je podnesen zahtjev za upis ili ministarstvo nadležno za pomorstvo. Time se za ovu vrstu plovila odstupalo od općeg načela nadležnosti prema prebivalištu ili sjedištu brodovlasnika ili vlasnika/korisnika jahte. Postupak se za ova plovila provodi bez odgode. Kao pravni osnov za upis prava vlasništva prihvaćena je jednostrana javnobilježnička isprava koja sadrži sve elemente glavnog ugovora, po uzoru na Bill of Sale, bez potrebe podnošenja glavnog ugovora. Nadalje, isprave na engleskom jeziku potrebne za upis prihvaćaju se bez prijevoda na hrvatski jezik.

Radi pojednostavljenja postupka znatno je smanjen broj isprava koje se prilažu zahtjevu za upis. Uvedena je elektronička isprava koja se, ako je izdana sukladno odredbama propisa o elektroničkim ispravama, smatra izvornikom isprave.

Novina u Zakoniku elektroničko je poslovanje jedinstvenog centraliziranog upisnika brodova. Zaprimanje zahtjeva dostavljenog elektroničkim putem evidentirano je u centralnom informacijskom sustavu za elektroničko uredsko poslovanje ministarstva nadležnog za pomorstvo.

Ključne riječi: upisnik brodova; hipoteka na brodu; mortgage; kriteriji za upis; postupak upisa brodova; upis hipoteke na brodu; nadležnost lučkih kapetanija; brod u međunarodnoj plovidbi; jahta u međunarodnoj plovidbi; ovršna isprava; elektronička isprava; jedinstveni centralizirani upisnik brodova.