

EDITORIAL

Dear Readers,

We are pleased to introduce a new issue of *Comparative Maritime Law* which consists of three original scientific papers, five review articles, reviews of four domestic judicial decisions, a review of one foreign book and, finally, one report, all this in the field of maritime law and the international law of the sea. The published materials provide a basis for further research of sources of maritime law and of international law of the sea, especially given that current legal issues are dealt with in the English language in five academic papers contained in this issue of the journal.

Associate Professor Gordan Stanković, PhD, Petar Kragić, PhD, and Assistant Professor Danijela Vrbljanac, PhD, in their paper seek to outline the main goal of unification with regard to the international recognition of legal effects that arise from the judicial sales of ships. The authors analyse the most significant provisions of the Comité Maritime International's (CMI) draft of the International Convention on Foreign Judicial Sales of Ships and their Recognition and summarise the CMI's efforts in trying to find an appropriate forum to serve as a vehicle to transform this draft into an international convention. Finally, the authors summarise the drafting work carried out so far by the United Nations Commission on International Trade Law (UNCITRAL).

It is known that academic papers resulting from the research project "Developing a Modern Legal and Insurance Regime for Croatian Marinas – Enhancing Competitiveness, Safety, Security and Marine Environmental Standards" (DELICROMAR, UIP-2013-11-30161) have already been published in *Comparative Maritime Law*. One such paper which derived from the said project is that of Associate Professor Adriana Vincenca Padovan, PhD, and Vesna Skorupan Wolff, PhD, who analyse the new legislative solution of Croatian law regulating berthing contracts as a new nominate contract. The paper deals with the definition of the contract, its basic features, essential elements, the obligations and liabilities of the contracting parties, and other salient features of berthing contracts. The authors support the new legislative solution as an important step towards greater legal certainty in nautical tourism, which is considered to be of strategic economic interest to the Republic of Croatia.

Another interesting issue in the field of maritime law is presented by Assistant Professor Iva Tuhtan Grgić, PhD, who provides an overview of the existing

legal framework which could apply to lighthouses, and highlights the divergent practice of the State Attorney's Office, the courts and the Maritime Property Boundary Commission regarding their legal status. The author offers proposals for possible solutions to regulate this field, to determine the lighthouse area and registration in the cadastre and land registers, and gives guidelines for drafting a legal framework for the management of lighthouses. Additionally, due to the fact that Plovput d.o.o., which manages 50 lighthouses in Croatia, has concluded contracts in relation to 17 lighthouses for restoration and lease, or contracts for lease, a model is proposed to regulate the rights and obligations arising from such contracts.

Professor Petra Amižić Jelovčić, PhD, and Professor Dragan Bolanča, PhD, deal with the application of Regulation 1177/2010 in Croatia which, along with Regulation 392/2009, aims to enhance the protection and rights of passengers while in transport by sea. Regulation 1177/2010 establishes rules for sea and inland waterway transport whose main goal is to ensure non-discrimination between passengers with regard to transport conditions offered by carriers and non-discrimination and assistance for persons with disabilities and for those with reduced mobility. The Republic of Croatia harmonised Croatian legislation on the maritime carriage of passengers with Regulation 392/2009 by amending its Maritime Code in 2013, while solutions from Regulation 1177/2010 were incorporated in Croatian legislation through the Amendments to the Act on Transport in Liner and Occasional Coastal Shipping, also in 2013. At the end of 2019, new amendments to this Act were adopted, further improving the rights of persons with disabilities and persons with reduced mobility.

Furthermore, Associate Professor Biserka Rukavina, PhD, and Professor Axel Luttenberger, PhD, elaborate on national provisions regulating the conducting of safety and administrative investigations for marine casualties and incidents in the Republic of Croatia. In 2015, the Government of the Republic of Croatia adopted a regulation which transposes in the legal order of the Republic of Croatia Directive 2009/18/EC of the European Parliament and of the Council of 23 April 2009 establishing the fundamental principles governing the investigation of accidents in the maritime transport sector and amending Council Directive 1999/35/EC and Directive 2002/59/EC of the European Parliament and of the Council. The authors present the outcomes of safety and administrative investigation procedures which effectively establish the circumstances and causes of such casualties and incidents for the purpose of improving maritime safety, reducing the risk of future casualties involving passenger ships, and preventing pollution from ships.

Professor Dragan Bolanča, PhD, enriches this issue of the journal with a paper in which he analyses the liability of the charterer (shipper) towards the carrier in the carriage of goods by sea, and in so doing compares Croatian legislative solutions with international unification conventions. The author concludes that the charterer (shipper) is presumed not to be liable as a basic principle, while in some cases the charterer would be responsible for damage on the basis of proven fault or strict liability.

Sanja Ljubetić, PhD, discusses issues regarding the determination of boundaries of the maritime domain and port area. The author attempts to answer the question of the relevant moment of determining the status of real estate as a maritime domain, which is a relevant fact for any further action of the competent authorities regarding legal relations involving that real estate. The contribution of the author to the solution of this problem is reflected particularly in an overview of the latest case law regarding the questions raised in this paper. In the final part of the work, the author proposes a solution to the existing issues for the purpose of ensuring consistency and legal certainty.

Diana Jerolimov, LLB, analyses the historic development of the system of registration of ships and mortgages in Croatia. She emphasises the importance of the development of the hypothec from the concept of a contractual right of pledge on a ship to the hypothec on a ship adopted by the 2004 Maritime Code, which confers upon the creditor the same rights as the English mortgage. With the latest 2019 Amendments to the Maritime Code, the system of registration of ships has completed its long development, from a complex court-administrative procedure to a simple and expeditious one.

A review of court practice is traditionally included in this journal and such is the case in this issue which contains reviews of four domestic judicial decisions. In this way, the Latin proverb *iura novit curia* is given effect when analysing the application of laws in practice. Some of the subjects of the claims contained in the judicial decisions are also the topic of scientific analysis which forms part of the scientific papers published in this journal. Indeed, it is worth providing an insight into the subject matter from both the theoretical and practical point of view.

This issue also contains a review of a foreign book on the border dispute between Croatia and Slovenia. The author, Thomas Bickl, presents the historical, geographical and political background of this unresolved legal matter between two countries and offers legal materials relevant to the topic. The special value of this book is that major sources of information for the author's research were interviews conducted with people from politics, legal science and the civil service directly involved in various phases of resolving the border dispute.

Last, a brief chronology is given of the existence and activities of the Croatian Maritime Law Association on the occasion of its thirtieth anniversary. Such activities include the (co)organisation of numerous events (in the form of domestic and international scientific conferences, round tables, and many others). Its bodies and prominent members are also listed.

Finally, we wish to thank all the authors for their contribution to the high quality of this journal. We are also grateful to the peer reviewers and editors for the knowledge and effort they have shown in the production of this issue. We truly believe that the materials published here will be stimulating for the work of both academics and legal practitioners dealing with maritime law and the international law of the sea.

Professor Davorin Rudolf, F.C.A., Editor-in-Chief