

Multidisciplinary
SCIENTIFIC JOURNAL
OF MARITIME RESEARCH



University of Rijeka
FACULTY OF MARITIME STUDIES

Multidisciplinarni
znanstveni časopis
POMORSTVO

<https://doi.org/10.31217/p.36.2.21>

Legal framework on pilotage in Croatia with special regard to 2021 amendments to the Ordinance on Sea pilotage

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ABSTRACT

Sea Pilotage in Croatia is regulated by the Croatian Maritime Code and the Ordinance on Sea pilotage. The Croatian Maritime Code contains general provisions on pilotage and defines non-compulsory pilotage, while the Ordinance on Sea pilotage determines what should be considered compulsory pilotage but also comprises provisions on pilotage company, pilots and Pilotage Exemption Certificate. Both of these legislations have been amended lately in order to align policies among themselves and with international and/or EU requirements. This paper gives an overview of contemporary legal framework of maritime pilotage in Croatia with a special reference to 2021 Amendments to the Ordinance. By using descriptive, comparative and compiling research method, the author analyzes the most important changes introduced by these amendments with the purpose to establish the level of alignment of relevant regulations as well as to assess if current provisions represent appropriate legal solutions of this important maritime institute.

ARTICLE INFO

Review article
Received 2 December 2022
Accepted 21 December 2022

Key words:

Croatian Maritime Code
Ordinance on Sea Pilotage
Compulsory and non-compulsory pilotage
Pilotage company
Pilot
Pilotage Exemption Certificate

1 Introduction

Pilotage has a long-standing history. The oldest document using the term pilot dates from 6th century BC and refers to the pilot as a guide of a ship [21]. These sailors were familiar with the currents and dangers of the local area and their experience, help and knowledge were indispensable for ships and their masters not acquainted with the zone of navigation. Throughout the centuries, the individual who controlled a ship was the master and the pilot at the same time. Afterwards, when international shipping increased and masters were no longer sufficiently familiar with areas they had to navigate frequently, employment of pilots, while sailing those areas was recognized as necessity and a form of good practice. Since the beginning of the 17th century, pilotage has been regulated in European countries by national laws and by local regulations of ports. Nowadays, pilotage is one of the most important prerequisites of maritime safety and maritime trades and, also, essential in providing safety to the ship navigation,

safety of life at sea and protection of the environment [22]. The importance of pilotage, and pilots as well, when navigating ports and other areas where specialized knowledge of local area is required, was formally recognized by IMO in 1968, when Assembly resolution A.159(ES.IV) Recommendation on Pilotage was adopted. The Resolution recommends that Governments establish pilotage services where they are found to be more effective than other measures. In addition, they must prescribe conditions that need to be met in order for pilotage company start with their work, as well as conditions for one to become a pilot. Relevant regulations consider that independence of pilots is exceptionally important for achieving high level of pilotage service. According to the Resolution, Governments have to define classes of ships that are subject to compulsory pilotage and those that are not [17].

Different national legislations define and classify pilotage in various ways. Moreover, not all types of pilotage exist in all countries since the nature of pilotage varies between countries and local circumstances. Even the type

and the number of pilotage organization in pilotage areas differ among countries. But common to all of them is *ratio* of their establishment; they have proved to be the most efficacious mode of ensuring safety of navigation. By introducing comprehensive and applicable legislation preconditions for successful performance of pilotage service are being created, but in this manner pilots are provided with independence in their work, as well.

2 Pilotage in Croatia

In the Republic of Croatia, the pilotage services are regulated by the Maritime Code of the Republic of Croatia – **CMC** [19] and the Ordinance on Sea Pilotage – **Ordinance** [13]. During last several years both legislations have undergone several amendments, mainly related to the alignment of policies with international and/or EU requirements, such as Regulation (EU) 2017/352 of the European Parliament and of the Council of 15 February 2017 on establishing a framework for the provision of port services and common rules on financial transparency of ports. According to Art. 68 of the CMC, pilotage is the guidance of a waterborne craft [Art 5, para 3 item 19, 3] by a competent person [13], and expert advice given to the master of the waterborne craft safe navigation in ports, straits and other areas of internal waters [Art. 7, para 1 item 19] and the territorial sea [Art. 18, para 1 item 19] of the Republic of Croatia.

Maritime pilotage in Croatia is classified according to two main criteria: the criterion of the area where it is conducted and the criterion of compulsoriness [15]. Consistently with the criterion of the area, pilotage can be either port or coastal, but in terms of legal consequences, there is no difference between them. Port pilotage is defined as 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 [Art. 68, para 3 item 19]. A more complex criterion to define pilotage is the criterion of compulsoriness. According to this criterion, pilotage can be either compulsory or non-compulsory. In order to ensure the safety of navigation which is the main goal of pilotage, the compulsory pilotage was introduced for certain vessel types and sizes. In addition, the CMC specifically exempts vessels that are not subject to mandatory pilotage. These vessels may also use pilotage, but they are not required to do so by the applicable regulations.

Unlike non-compulsory pilotage which is regulated by the CMC, compulsory pilotage is regulated by special regulation called the Ordinance on Sea Pilotage. The only provision within the CMC that refers to the compulsory pilotage is Art. 70, para 1, which obliges the master of a ship to request pilotage services when pilotage is compulsory, but this article does not regulate what is to be considered a case of a compulsory pilotage. Moreover, Art. 70, para 7 of the CMC states that compulsory pilotage, its lim-

its, and the times of embarking and disembarking of a pilot are determined by the port authority, and for coastal pilotage by the Minister. In regard to other EU countries, it may be concluded that **vessel entering, exiting or manoeuvring** within a port are always subject to compulsory pilotage, taking into account the dimensions of that vessel and the type of cargo. The main criterion regarding the vessel dimension is gross tonnage or overall length (LOA), although, in some EU countries, draft or width criteria are also stipulated. Common to all the countries are vessels carrying dangerous goods which are almost always subject to compulsory pilotage without exemption [18].

The CMC prescribes access to pilotage for all waterborne craft on equal terms. With regards the use of pilotage services and the payment of the remuneration for these services, the foreign waterborne craft are treated in the same way as Croatian waterborne craft, on the basis of reciprocity. The principle of equal treatment has its origin in Art. 2 of the International Convention and Statute on the International Régime of Maritime Ports, Geneva 1923 according to which each Contracting State undertakes to grant the vessels of any Contracting State of the same treatment as with its own vessels, or those of any other state, in the maritime ports situated under its sovereignty or authority as regards freedom of access to the port, the use of the port and the full enjoyment of the benefits as regards navigation and commercial operations which it grants to vessels, their cargoes and passengers [9]. Article 11 gives the right to every contracting state to organize and administer the pilotage service as it finds appropriate [9]. Accordingly, it is emphasized that when pilotage is compulsory, dues and facilities are offered on terms of equality, but each country may exempt from the obligation of compulsory pilotage those nationals who possess the necessary technical qualifications [9, 10, 16].

The maximum amount of remuneration for pilotage services in Croatia is set by the Minister in the Order on the maximum allowable amount of compensation for pilotage services in internal sea waters and the territorial sea of the Republic of Croatia [12]. In the EU, maximum amount of dues vary and those amounts are generally high on average in northern Europe, particularly in the Netherlands, Norway and Belgium, while are significantly lower than the average in southern European countries, such as Croatia, Cyprus, Malta, Bulgaria and Italy for example. Different standards are used across the countries to calculate pilotage dues. In some countries pilotage dues are calculated based only on tonnage, for example in Cyprus and Latvia, whereas in Ireland and Belgium, they are based on a wider range of criteria such as LOA, draft and distance [18].

3 Non-compulsory pilotage

The latest interventions to the CMC were made in 2019, and pursuant to those amendments pilotage is not compulsory for the following:

- a) Croatian warships [Art. 5, point 12 item 19], Croatian public ships [Art. 5, point 14 item 19], ships used for the maintenance of navigable waterways and facilities serving for the maritime safety on these waterways, water tankers, passenger ships [Art. 5, point 39 item 19] in scheduled national service,
- b) ships [Art. 5, point 2 item 19] whose gross tonnage is less than 500 t,
- c) yachts [Art. 5, point item 19] whose gross tonnage is less than 1,000 t.

According to the Croatian legal framework these vessels are entitled to pilotage services but are not obliged to use them.

In contrast to this exemption, the Minister may impose compulsory pilotage for certain types of ships whose gross tonnage is less than 500 and yachts whose gross tonnage is less than 1,000. These ships are subject to mandatory port pilotage in a certain period of the year and/or in a specified maritime area. This provision was one of the novelties of the 2019 CMC amendments [Art. 70, para 4 item 19].

In accordance with to the CMC non – compulsory pilotage terminates when called off by the piloted waterborne craft [7,8] **or when it enters the area of compulsory pilotage**, and the pilot is not authorised to conduct such pilotage [Art. 71, item 19].

Before these interventions to the CMC in 2019, passenger vessels flying the flags of other EU member states were also excluded from compulsory pilotage, which represented a discriminatory solution. Namely, since European states do not recognize the system of exemption from compulsory pilotage according to their flag, it was not necessary to change the former provision in order to harmonize the Croatian Maritime Code with the EU *acquis communautaire*. Moreover, this provision allowed for unequal treatment towards ships sailing on regular shipping lines and flying the flag of the Member States of the International Convention and Statute on the International Régime of Maritime Ports, but which are not Member States of the EU, compared to those that are. Finally, this solution violated the principle of reciprocity, which is regulated by the aforementioned Convention, as well as the principle of the safety of navigation which is the fundamental reason for establishing pilotage service. [16] Therefore, 2019 amendments to this provision of the CMC can be qualified as satisfactory.

In addition to the vessels listed above, the Minister is, exceptionally, entitled to exempt a certain ship or yacht from the obligation of port pilotage with a gross tonnage less than 2000 tons. He can exempt them for a limited period and in a particular port area, on the condition that the master has passed a special exam and has obtained a Pilotage Exemption Certificate (PEC). This exemption cannot be applied to ships transporting dangerous or toxic substances, which are always subject to compulsory pilotage.

4 Compulsory pilotage

Compulsory pilotage is defined by the Ordinance which was introduced in 2010 and last amended in 2021. It determines the compulsory sea pilotage in specific areas of internal sea waters and the territorial sea of the Republic of Croatia, the conditions that a trading company performing pilotage activities has to meet, the professional qualifications, authorizations and other conditions and obligations that a sea pilot has to meet, the conditions for exemption from compulsory 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 [Art. 1, item 13].

According to the Ordinance, compulsory pilotage begins or ends on the border of the pilotage area at the moment when, ship maneuvering begins or ends, based on an expert advice from the pilot. It may take the form of port pilotage and coastal pilotage. The situation when a ship needs to be berthed or anchored, is specially regulated and it is prescribed that in these cases the pilotage ends at the moment when the ship is berthed or anchored [Art. 3, item 13].

The Ordinance establishes the ship master's obligation to use the services of compulsory port or coastal pilotage in accordance with the provisions of Article 70 of the CMC [Art. 6, item 13]. The borders of compulsory (mandatory) pilotage, as well as the time and area of embarkation and debarkation of the pilot for port pilotage, are determined by the harbour master's office. The same duty is assigned to the Minister in regard of coastal pilotage [Art. 70, para 7 item 19].

Even in the case of compulsory pilotage, it is possible to cancel it. If the master, for any reason, cancels the service during the compulsory pilotage, it will be considered as if the service was provided in whole. In that case, pursuant to the novelties of the Ordinance from 2021, the pilot station is obliged to inform the harbor masters' office [20] and VTS service about the cancellation without further delay.

Compulsory port pilotage is regulated very strictly with the goal to achieve the highest possible level of safety of navigation. For this reason, when in port the ship must be piloted even if it is transferred from one coast to the other, when it is moved along the coast using propulsion machinery or a tug boat, as well as in situations when the ship is turned on the same berth with or without a tug boat. The port pilotage service has to be requested by the ship master at least two hours before leaving port, or relocating, moving or turning the ship [Art. 7, para 2 item 13].

In order to harmonize Ordinance with the CMC provisions, 2021 Ordinance amendments introduced a new article according to which 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 and that the master has the Pilotage Exemption Certificate [Art. 8, para 1 item 13]. The master of the aforementioned ship has to inform the pilot station of the ship's intention to enter a port or to leave a port at least two hours before arriving at the position where the pilot is to be embarked or leaving the port. Nevertheless, the harbour master's office may order, in exceptional cases, for these ships to use the services of a pilot until the deficiencies that warranted the use of the services of a pilot are corrected, or for navigation safety reasons. At all events, the pilot station has to provide pilotage services to the ship at any point if necessary.

The Ordinance stipulates compulsory coastal pilotage for vessels of gross tonnage 40 000 and above, with the exemption of ships in possession of a certificate of degassing or inerting tanks. Furthermore, ships transporting noxious liquid substances in bulk or liquefied natural gases and oil tankers will also be submitted to compulsory coastal pilotage [Art. 10, para 1 item 13]. The scope of application was changed by the latest interventions to the Ordinance. Before, pilotage was compulsory for ships of gross tonnage 40 000 and above, transporting dangerous liquid chemicals or liquefied natural gases [1] and to the oil tankers [Art. 5, point 52 item 19] while these exemptions referring to ships in possession of a certificate of degassing or inerting tanks did not exist.

The Ordinance prescribed the necessity of announcement of the need for pilotage operation so that pilots could prepare and provide the best possible service. Considering that, the Master has to request the service of compulsory coastal pilotage at least 24 hours before entering the area where coastal pilotage is compulsory and at least 6 hours before leaving this area. Furthermore, pilot station has to inform the competent harbor master's office and VTS service of accepting the aforementioned pilotage service at least two hours before the ship's arrival at the position where the pilot is embarked [Art. 10, item 13].

Supervision of the performance of pilotage is carried out by navigation safety inspectors of the Ministry and harbor master's offices, as well as by other authorized employees of the Ministry and harbor master's offices, in accordance with a special authorization [Art. 42, item 13].

5 Pilotage company

With regards to the legal structure of pilotage in the EU, pilotage services are generally carried out by public providers, but there are some European countries where pilotage is provided by private pilotage companies like in Croatia, Bulgaria, Malta, Poland, Romania, Slovenia and Spain. Finally, there are also several countries where there is a mixture of public and private organizations, such as in Belgium, Denmark, Latvia and Great Britain [18]. Independently of the type of organization, pilotage companies are always under the supervision of their countries [4].

In Croatia, pilotage services are provided by private pilotage companies. Only if a domestic legal person cannot or is not interested in conducting pilotage, Ministry can grant an authorisation to the foreign legal person for conducting pilotage in internal waters and in the territorial sea of the Republic of Croatia [Art. 69, item 19]. Hence, all pilotage, whether is compulsory or not, is conducted, exclusively, by a company having obtained authorisation for this activity [Art. 70, para 5 item 19] by the Ministry for the period of 10 years. It needs to be emphasized that the authorization can only be issued to one pilotage company in the pilotage area which encloses the area of one or more harbor master's offices. However, if marine traffic in pilotage area assumes such a level that the designated pilotage company is no longer able to perform complete service on its own, the Ordinance allows a pilotage company from another pilotage area to provide services for a limited period if necessary. [Art 11c, item 13]. If subsequently is established that the company conducting pilotage on the basis of the Ministry's approval does not satisfy the conditions on the basis of which the authorization was granted, or if some other irregularity in the business operations of the company is established, the Ministry will determine a reasonable deadline for pilotage company to remove deficiencies and if not, Ministry will withdraw the authorization [Art. 11b, item 13]. The special requirements that must be met in order for approval to be issued are the required number of pilot vessels or boats; the required number of VHF radio stations; the required number of pilots with valid sea pilot identity cards and 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. [Art. 11, para 3 item 13].

The pilotage company has an obligation to keep the pilot log on the provided services. The pilot log has to contain the following information: entry number, name of the piloted ship, the IMO number, flag state, registration port, GT, ship type, ship length, ship width, ship draught, day, month and year of pilotage, berthing/unberthing location, type of manoeuvre (arrival, departure, ship relocation), time of pilotage start and ending, first and last name of the pilot, the number of tug boats and comments (port, coastal, PEC). According to the 2021 Ordinance amendments, the company is obliged to submit the log to harbor master's office on request [Art. 15, para 3 item 13]. Before these amendments, the pilotage company was obliged to keep a pilot log and submit it weekly to the harbor master's office for consideration either directly or by e-mail and have had an obligation to keep it for each calendar year and for at least 3 years.

5.1 Pilot

The Ordinance defines precisely who is competent to become a pilot. Pilotage can be performed only by persons with a valid sea pilot identity card which is issued by the

harbor master's office with a validity of five years from the date of issue. A pilot may request the extension of the validity of his card from the harbour master's office where it was issued. In this connection, pilot has to submit confirmation of the pilotage company proving that he has performed pilot service for at least 12 months in the last 5 years, as well as a medical fitness certificate [Art. 36 item 13]. In Croatia, a sea pilot identity card can only be issued to a person who holds the sea pilot certificate and a confirmation of being employed in a pilotage company. The register of the issued sea pilot identity cards is kept by the Ministry and the harbor master's offices. In order to obtain the pilot certificate one must pass the pilot examination and meet the prescribed conditions. The pilot examination consists of a theoretical and a practical part. The theoretical part of the pilot examination is oral and includes Navigation safety, Sea pilotage and English language while practical portion of the examination includes the manoeuvre of calling a port, the manoeuvre of leaving port and navigation between two ports in an area of mandatory coastal pilotage [Art. 23, item 13].

In order to be eligible to take the pilot exam, a person needs to fulfill specific conditions [Art. 19, para 2 item 13]. One must possess the ship master's certificate for a ship of 3000 GT or more; the basic proficiency certificate for working on tankers, the certificate of competency as general radio operator. In addition, one has to have at least 12 months of seagoing service in the capacity of chief officer or ship master on a ship of over 3000 GT; at least 50 port pilotages for a specific port pilotage area, and at least 5 coastal pilotages for coastal pilotage, under the authority of a pilot. Finally, a person who tends to take the pilot exam has to meet the prescribed health requirements for the deck department and, if a person is a foreign citizen, has to have an active knowledge of the Croatian language.

During pilotage, the pilot has numerous duties. He has to guide a waterborne craft and give expert advice to the master of the waterborne craft for safe navigation, berthing and anchoring. Moreover he must give warnings on navigation conditions and draw attention to the applicable legal provisions in force [Art. 17, para 1 item 13]. Furthermore, the pilot has to, without delay, report the detected deficiencies that can affect ship safety, navigation safety or pose a threat to the environment to the VTMISS service via the VHF radio station.

Croatian legal framework bans to the pilot to leave the command bridge of the piloted ship during compulsory pilotage, even when the master of the piloted ship does not accept pilot's advice on navigation, maneuvering, berthing and anchoring of the ship. If, on the other hand, pilotage is not mandatory, the pilot has to stop the pilotage when the master of the piloted ship asks him to [Art. 18, item 13].

In the majority of countries pilots are able to refuse (or abort) pilotage missions under certain circumstances, particularly on safety grounds. In Croatia, the pilot is obliged to refuse the pilotage of the ship under the three particular circumstances:

- a) if the draught is not appropriate for the sea depth in the place designated 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;
- b) if the ship is not capable of navigation [3] or if it did not obtain the clearance to enter/leave port from the harbor master's office; and
- c) if the Master insists on a maneuver which jeopardizes the safety of the ship, safety of navigation or marine environment.

In these cases, the pilot has to inform the competent harbor master's office and VTS service on refusing the pilotage service. He also has to inform, without delay, the VTS service via a VHF radio station or telephone, and the harbor master's office in written or by e-mail within 24 hours of any violations of regulations committed by the piloted or other ship regarding ship, crew, passenger and cargo safety, and environmental protection as well as of activities on the piloted or another ship that led 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. The pilot must notify the VTS service and the harbor master's office if the master of the ship to be piloted does not accept the pilot's advice regarding the upcoming pilotage and of a suspicion that the master is under the influence of alcohol or other intoxicating substances.

The obligation of the pilot to notify the competent harbour master's office, without delay, of apparent irregularities observed on board during regular duties that may endanger the safety of navigation or may pose a risk of pollution of the marine environment was one of the novelties of the 2019 CMC amendments introduced in order to harmonize its provisions with the provisions of the Ordinance which have already been implemented.

5.2 Liability of the pilot

Despite advanced technology, human and ship related factors still remain the most significant cause of the accidents during maritime pilotage. Moreover, crew training, ship condition, length overall, ship draught, master experience, pilot experience, and bridge team management have the most critical effect on the occurrence of accidents [5]. Human errors, within the maritime industry, can have serious consequences associated with costly damages to equipment, loss of lives, severe injuries or environmental pollution. Therefore, all measures available should be undertaken in order to protect the crew, the ship, the environment and the pilot, whose profession is dangerous and prone to risk, and who is extremely exposed to hazard during pilotage operations [2].

With regards to the liability of the master while pilot is on board, provisions of the CMC are very clear and exclusive. Namely, the pilotage of a waterborne craft 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 there from. In this connection, it is not decisive whether pilotage was compulsory or not. [8, Art. 73, item 19]. **It needs to be emphasized that 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 [14].**

The pilot acts as an advisor to the Master regarding the route into or out of the port, berthing and un-berthing, drawing on his experience and knowledge of the local maritime area. However, the Master's decision regarding navigation and manoeuvring prevails over pilot's advice and he retains legal authority on board. So, it is to be concluded that Croatian legislation accepts the principle according to which the pilot's actions will not exempt the shipmaster from his liability towards the third person [16]. The CMC prescribes different legal solutions in case of damage to the piloted ship. If the operator of the piloted waterborne craft endures damages caused by the pilot, compensation of those damages to the operator of the waterborne craft is the responsibility of the company employing the pilot at the time when the damages were caused. Compensation may go 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 is proved to lie with the pilot. The same compensation limits will be applied in cases when the CMC allows for the possibility of claiming the compensation of damages directly from the pilot by whom the damages are caused, except when damages caused by the pilot are deliberate [Art. 74 item 19]. It is emphasized that a contract limiting the liability of the company conducting compulsory pilotage, concluded contrary to the aforesaid provision, before the damages to the shipper are caused, will not have any legal effect. Similar legal solution is prescribed in cases when a contract limiting the liability of the company liable to compensate damages caused by non compulsory pilotage services was concluded before the occurrence of damages for an amount smaller than the amount of compensation prescribed by the CMC.

Finally, the pilot's responsibility, together with the responsibility of the company employing the pilot, or together with the responsibility of any other legal person whose pilot is an employee, will not exceed these limit of responsibility, unless it may be proved that the damages caused by the pilot were deliberate in which case his responsibility will not be limited [Art 75, item 19].

6 Pilotage Exemption Certificate (PEC)

The Ordinance defines Pilotage Exemption Certificate (PEC) as a certificate exempting the certificate owner from the obligation to use the services of mandatory port pilotage in a certain port, port basin and for a certain ship indicated in the certificate. An exemption from pilotage can be

granted to vessels that are smaller, performing maintenance or services within the port, government-owned, military in nature, recreational and fishing vessels and some passenger ferry vessels, as well. In comparison with southern Europe, there is a much higher prevalence of PECs in northern Europe. Although most of the European countries agree with the approach of having PEC valid for one vessel, in some countries such as Denmark, Germany, Lithuania and Sweden PEC can be granted for multiple vessels if the vessels are similar in nature [18].

In Croatia, a bilingual PEC, in Croatian and English, is issued by the harbor master's office, as the competent authority, to a candidate who passed the examination. PEC's are entered in the register of pilotage certificates and kept by Ministry and the harbor master's office. The Ordinance prescribes several conditions that must be cumulatively met in order for a person to obtain the PEC [Art. 25, item 13]. Consequently, one must have a valid certification authorizing him to command the ship that can be exempted according to the Ordinance and have at least 12 months of seagoing services in the capacity of a ship master. Furthermore, he needs to have a proof that he has carried out, over the past two years, under surveillance from a pilot, 10 entering into and 10 times leaving port and port basin for which the PEC is being requested, while 2 of each are carried out at night. One has to have a certificate of having active knowledge of the Croatian language, if the person is a foreign citizen and be embarked on the ship in the capacity of master of a ship for which the PEC is requested. Finally, Ordinance stipulates that a person to obtain PEC must pass the exam for acquiring the PEC.

Before the latest changes to the Ordinance different conditions were prescribed depending on the ships overall length. In comparison to valid provisions, those former provisions stipulated that, for ships of 50 meters and above in overall length, the PEC can be obtained by a person that has fulfilled all terms listed above with only two differences; one has to have at least 36 months of seagoing services in the capacity of a ship master and night pilotage is not included as a condition. For ships under 50 meters in overall length, the requirements for a person to obtain the PEC are almost the same. The only difference is the time period of that person's seagoing service, because in this case 12 months of seagoing service in the capacity of a ship master is a sufficient time to be eligible to obtain this certificate. Furthermore, 2021 Amendments to the Ordinance prolonged validity of certificates for 2 years, so the PEC is now valid for 4 years after the day of issuing and can be renewed if the person performed the activities of entering into and leaving port, in the period of last two years, for at least 10 times each in the area and on the ship to which the PEC applies. The issuance of the PEC as well as renewal of the PEC has to be initiated on request of a shipowner, ship operator or company [Art. 20 item 13].

Very similar to the pilot's exam, the examination for acquiring the Pilotage Exemption Certificate (PEC) consists of a theoretical and a practical part. The theoretical part of

the examination is oral and includes navigation safety and ship maneuvering while the practical part of the examination includes the manoeuvre of calling at or leaving a port of a ship for which the decision on pilotage exemption for a port or a specific port basin is issued [Art. 26, item 13].

7 Concluding remarks

Pilotage is one of the oldest and least-known maritime professions and, undoubtedly, *conditio sine qua non* safety of navigation. For centuries pilots were designated persons entrusted with guiding ships in and out of ports as individuals most familiar with local circumstances. Nonetheless, they were guards of ships, ports and marine environment. The Republic of Croatia, as a coastal country, also has a long history of pilotage. The contemporary Croatian legal framework of pilotage consists of two main legislations that classify pilotage pursuant to two criteria: the criterion of the area where it is conducted and the criterion of compulsoriness. According to the criterion of the area, pilotage can be either port or coastal. The criterion of compulsoriness is more demanding and primarily for that reason Croatian Maritime Code provides general provisions and gives focus to non compulsory pilotage while Ordinance on Sea Pilotage defines compulsory pilotage in detail.

The CMC accentuates the principle of equal treatment and prescribes accessibility of pilotage to any waterborne craft on equal terms in accordance with provisions of International Convention and Statute on the International Régime of Maritime Ports. 2019 Amendments to the CMC specify the types of ships exempted from compulsory pilotage emphasizing that those ships are entitled to pilotage services but are not obliged to use them. Before these interventions, passenger vessels flying the flags of other EU countries were also excluded from compulsory pilotage. That legal solution was graded as discriminatory towards ships sailing on regular shipping lines but are not flying the flag of the EU member states. Furthermore, the former provision was redundant since European states do not recognize the system of vessel exemption according to their flag.

The Ordinance stipulates compulsory coastal pilotage for ships with gross tonnage of 40 000 and above, with the exemption of ships in possession of a certificate of degassing or inerting tanks. Furthermore, ships transporting noxious liquid substances in bulk or liquefied natural gases and oil tankers will also be submitted to compulsory coastal pilotage. The scope of application was narrowed by the 2021 Amendments to the Ordinance. Before, pilotage was compulsory for ships with gross tonnage of 40 000 and above, transporting dangerous liquid chemicals or liquefied natural gases and to the oil tankers while aforementioned exemptions, referring to ships in possession of a certificate of degassing or inerting tanks, did not exist. Another novelty from the 2021 amendments to the Ordinance deals with the cancellation of compulsory pilot-

age. If the master, by any reason, cancels the service during the compulsory pilotage, it will be considered as if the service is provided in whole, and, pursuant to the novelties, the pilot station is obliged to inform the harbor master's office and VTS service about the cancellation without further delay. Within this context, Pilotage Exemption Certificate is of major importance since it exempts its owner from the obligation of using the services of compulsory port pilotage in a certain port, port basin and for a certain ship indicated in the certificate. Before the 2021 Amendments, the Ordinance regulated this issue in accordance to the ships overall length, prescribing different conditions for ships of 50 meters and above and those under 50 meters. Now, conditions are the same for all ships.

In Croatia, pilotage is provided by a private pilotage company. Hence, all pilotage, whether compulsory or not, is conducted exclusively by a company having obtained authorization for this activity by the Ministry for the period of 10 years. **It needs to be emphasized that the approval can only be issued to one pilotage company in the pilotage area which encloses the area of one or more harbor master's offices.** Although some find this legal solution to be disputable, because it can set preconditions to monopolize this marine service, it is very important to withhold it. Namely, pilots need to be independent to be able to exercise their professional judgment undeterred by commercial or economic pressure. It should not be forgotten that pilots are not only advisors of shipmasters, but are also guards of the marine environment obliged to report any irregularities detected on board. If there were two or more pilotage companies operating in the same pilotage area it would be highly possible that they would not be impartial and strict since they would have competition.

The pilotage company has an obligation to keep the pilot log and submit it to harbor master's office on request. This is also one of the 2021 novelties to the Ordinance. Before these changes, a company was obliged to keep a pilot log and submit it weekly to the harbor master's office for consideration either.

The Ordinance defines conditions that need to be met in order for one to become a pilot. Pilotage can only be performed by persons with a valid sea pilot identity card which is issued by the harbour master's office with a validity of five years from the date of issuance. Although, the pilot acts as an advisor to the Master regarding the route into or out of the port, berthing and un-berthing, the Master's decision concerning navigation and manoeuvring prevails over pilot's advice and he retains legal authority on board. Therefore, the pilot's actions will not exempt the shipmaster from his liability towards third person.

After analyzing all provisions from the Croatian Maritime Code and the Ordinance on Sea Pilotage, it is to be concluded that the Croatian legal framework, after the latest amendments to both of these legislations, is in line with relevant European regulations as well as with each other. Moreover, experience from performing pilotage operations in practice, in conformity with Croatian laws, proves

that contemporary legal solutions are adequate and provide appropriate regulatory rules in this matter.

Funding: The manuscript should contain all sources of funding for the study, clearly stated. If the research is not funded, then the following statement should be included: "The research presented in the manuscript did not receive any external funding."

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