

EDITORIAL

Dear Readers,

We present to you the new issue of *Poredbeno pomorsko pravo* = *Comparative Maritime Law*, continuing our mission of publishing papers in various fields of maritime law and the law of the sea. As in previous years, the journal addresses current topics in the field, thanks to the expertise of the authors whose analyses, discussions, and proposals significantly contribute to the quality of the content. All materials published in this issue provide a foundation for the further study of maritime law and the law of the sea, with particular emphasis on papers addressing topics in maritime property law and insurance law, presented at the scientific conference “Maritime Property Law and Insurance Law – In Memoriam Professor Drago Pavić, PhD”, held on 15 December 2023 at the Library of the Croatian Academy of Sciences and Arts in Zagreb. The conference was organised by the Adriatic Institute of the Croatian Academy of Sciences and Arts in collaboration with the Faculty of Maritime Studies at the University of Split, the Croatian Maritime Law Association, the Croatian Transport Law Association, and the Croatian Insurance Law Association, in honour of Professor Drago Pavić, PhD (1933-2023), a distinguished Croatian scholar, expert, and author in the field of maritime law, particularly marine insurance law.

This issue contains four original scientific papers, three review articles, one professional paper, four domestic court rulings, one foreign court ruling, reviews of two foreign books and one foreign lecture.

Vesna Skorupan Wolff, PhD, is the author of the original scientific paper entitled “Presumptions for the Application of Certain Systems of Liability for Loss of Life and Personal Injury to Swimmers and Other Persons in the Sea”. The author comments on and critically analyses the conditions that must be met for the application of specific liability systems for damage resulting from the loss of life or personal injury to the swimmer or other persons in the sea. The application of the law depends on which object caused the loss of life or personal injury. Three systems of rules on liability for damage can be applied. The first system consists of provisions of the Maritime Code on non-contractual liability of the shipowner and ship operator, as well as liability for loss of life and personal injury. The second system is prescribed by the provisions of the Maritime Code on the recovery and removal of wrecks and sunken objects. The third system consists of provisions of the Civil Obligations Act on liability for damage. After an exceptionally thorough analysis, the author concludes that the legal regulations

are characterised by completeness and systematicity; however, many specific legal issues related to the delimitation of certain systems of liability for damage, limitation of liability, and certain types of insurance contracts may be doubtful. Interpretations of open legal issues and comments on the legal provisions presented in this paper should contribute to an improvement in the implementation of regulations in practice and provide guidelines for the correct selection of law for specific non-contractual liability for damage due to the loss of life and personal injury to swimmers and other persons at sea.

Gordan Stanković, PhD, and Associate Professor Adriana Vincenca Padovan, PhD, are co-authors of the original scientific paper entitled “The Commencement and Duration of the Limitation Period for a Subrogated Insurer’s Claim Against a Tortfeasor: Can It Be Any Different?”. The authors analyse the insurers’ subrogation as a particularly important concept in property insurance, where, upon the payment of the insurance proceeds, the insurer *ex lege* steps into the legal position of the insured in relation to the tortfeasor. Procedural and substantive legal challenges arising from this mechanism are often the source of complex legal considerations, especially in terms of the commencement and duration of the limitation period for subrogated claims. The very systematic and thorough discussion includes interesting case law, a critical analysis of legal regulations, as well as comparative legal solutions. The authors advocate for the reform of the relevant legal provisions and propose specific amendments *de lege ferenda* to better protect the insurer’s rights and establish greater legal certainty.

Professor Željka Primorac, PhD, is the author of the review article “European Legal Sources on the Execution of the Obligation to Count and Report Data on Passengers and Ship Crew Members”. The author analyses the European legal sources on the execution of the obligation to count, report, and transfer data on the passengers and crew members of ships sailing within the EU. The paper shows the problem of the incomplete transposition of European legislation into the national legal systems of the EU Member States, which has led to administrative and financial burdens for shipowners. The paper further analyses the legal provisions that include the application of modern technological achievements in maritime transport, the digitalisation of the reporting obligation, and the electronic system for collecting and transferring data on persons on board. The author evaluates to what extent the EU’s long-standing goals have been achieved regarding the modality of adapting the existing legal provisions to the challenges of digitalisation and modern maritime navigation, ensuring greater efficiency in the implementation of search and rescue measures for persons on board and helping to resolve the consequences of maritime accidents.

Ivica Kinder, PhD, is the author of the original scientific paper “Normative Challenges in the Exploitation of Wind Energy in the Exclusive Economic Zone of the Republic of Croatia”. The author studies normative, as well as accessory, legal and non-legal challenges associated with the exploitation of renewable energy sources, especially wind energy at sea in Croatia, with particular focus on the exclusive economic zone (EEZ). He concludes that the normative framework of the Republic of Croatia should be complemented with respect to the exclusive economic zone and should be harmonised inter-departmentally at both a legal and by-law level, especially regarding the definitions of basic terms. In the paper, the EU’s efforts in the field of energy transition are presented and commented on through an analysis of EU policy in this domain. Strategies and secondary law concerning the blue economy, maritime spatial planning, and transboundary and regional cooperation are all analysed. Considering the EU’s political and economic efforts regarding the EEZs of its Member States, the author advocates the active involvement of the Republic of Croatia in all ongoing processes to protect its national interests in accordance with its geopolitical position and maritime Adriatic orientation.

Marin Novak, LLB Candidate, a young author at the beginning of his scientific career, is the author of the original scientific paper “The Property Law of Beaches in the Republic of Croatia”. The author investigates how the property law of beaches in the Republic of Croatia developed from the Austro-Hungarian period through to the adoption of the Maritime Demesne and Maritime Ports Act. The paper examines the legal typology of beaches, the issues surrounding acquired rights, concessions, and the protection of rights on beaches. It pays particular attention to the limitations on the general use of marine resources and the need to safeguard their natural and social values. The author analyses how the new legislation relates to the previous laws and concludes that, despite initial criticisms, it represents an evolution rather than a revolution in this area. The author concludes that certain issues remain open, such as those concerning the lien capacity of concession rights and acquired rights on maritime demesne.

Boris Jerman, PhD, is the author of the review article “Regulation of the Employment Status of Seafarers”. The author analyses the specific details of the employment relationship of seafarers who work and live on board, often far away from their families. In the past, their position was less than enviable, as they, as a party in the working relationship, were clearly under the authority of the shipowner and were very poorly informed about their rights. The introduction of international regulations, of which the Maritime Labour Convention of 2006 (MLC,

2006) is of key importance, has improved the status and position of seafarers as well as port state control. However, despite progress, the position of seafarers is still far from desirable, as shipowners seek to reduce their own operating costs by cutting down on the number of crew members and their benefits. The author indicates particular aspects of the legal framework governing the position of seafarers that cannot be regulated by general labour law and analyses the development of regulations that address the status of seafarers. The article also compares the national regulations of Slovenia, Croatia, and Italy. The author concludes that the legislation of the three countries more or less complies with the MLC, 2006, and other international conventions, but they differ in their scope, which is influenced by the extent and importance of the maritime sector in their national economies.

Ante Vuković, PhD, is the author of the review article "Division of Jurisdiction Between the Republic of Croatia and Local Self-government Units in Relation to the Maritime Domain". The author presents relevant historical and positive legal sources related to the supervision of the maritime domain in Croatia. In the paper, the division of jurisdiction between the Republic of Croatia and local self-government units over the maritime domain is analysed.

Ines Bezić, LL.M., is the author of the professional paper "Marina Liability Insurance: A Practical View". The author analyses the liability insurance of marinas considering adverse events in the marina and in case law. The responsibility of the marina for damage to vessels moored in the marina towards service users is observed through the contract on nautical berths. The legal framework and autonomous law are both analysed. In addition to contractual liability, the non-contractual liability of the marina towards third parties is also considered. In the context of marina liability insurance, an analysis is made of types of insurance, the most important concepts from insurance contracts, and insurance policies. The paper describes procedures in the event of an adverse event in the marina, presents examples from practice of adverse events in the marina, and summarises court decisions in disputes arising from berth contracts.

A review of court practice is traditionally included in this journal, and this issue is no exception. It features reviews of four domestic and one foreign judicial decision, prepared by Vesna Skorupan Wolff, PhD, and Vesna Polić Foglar, PhD. The authors analyse judgments in the field of maritime law, exploring how legal standards have been applied in various cases. The documentation and interpretation of case law significantly contribute to the development of maritime law doctrine, as well as to judicial and business practice, making them valuable contributions for a wide range of readers.

Book reviews are always valuable contributions because they promote new works and enrich the knowledge of both domestic and foreign experts. Therefore, they are frequently included in our journal. This issue contains reviews of two academic monographs: *Shipping Law, 5th Edition*, authored by Professor Martin Davies and Professor Anthony Dickey, presented by Associate Professor Adriana Vincenca Padovan, PhD; and the book *Coastal State Jurisdiction over Ships in Need of Assistance, Maritime Casualties and Shipwrecks*, authored by Associate Professor Iva Parlov, PhD, and prepared by Irena Nišević, LL.M. Both monographs are written in English and address internationally relevant maritime law topics, so they will surely find an international readership.

In this issue, we present an international lecture review prepared by Associate Professor Adriana Vincenca Padovan, PhD, a Fulbright Visiting Research Scholar at the Maritime Law Center, Tulane University Law School (New Orleans, Louisiana, USA) for the academic year 2023/2024. The review covers a maritime law lecture held on 3 April 2024 at Tulane University Law School in honour of the distinguished Professor William Tetley. The lecture was delivered by the Hon. Sarah Derrington, Justice of the Federal Court of Australia since 2018 and one of the leading experts in maritime and insurance law. In her presentation “Has National Idiosyncrasy Trumped International Uniformity?”, Justice Derrington explores the fundamental arguments for advocating international uniformity in maritime law and how that vision can be complicated by specific national legal solutions. The discourse mainly focuses on two key areas of maritime law: the carriage of goods by sea and the limitation of a shipowner’s liability for maritime claims.

Finally, we would like to thank all authors for their contributions, as well as the peer reviewers and editors who have assisted in the preparation of this issue of the journal *Poredbeno pomorsko pravo = Comparative Maritime Law*. We believe that all the contributions will be useful to the academic community and also to legal practitioners and institutions. The high level of scientific and professional contributions published in our journal encourages us to continue improving its quality and to contribute to the development of the scientific community and society as a whole.

Professor Jakša Barbić, Editor-in-Chief