# EDITORIAL

Dear Readers,

Before you is the latest issue of *Poredbeno pomorsko pravo = Comparative Maritime Law*, which this year again features contributions by domestic and foreign authors on topical legal questions in maritime and transport law and the international law of the sea.

The issue contains six papers addressing a range of subjects – the reform of Japanese law to introduce electronic bills of lading, the arrest of ships, maritime insolvency, the role of Frontex in the implementation of the Entry/Exit System (EES), hull insurance of leased aircraft, and State responsibility in combat operations involving sea drones. In addition to the scholarly papers, this issue also features case notes on one foreign and four domestic court decisions, two book reviews and two obituaries.

The paper by Professor Souichirou Kozuka, PhD, entitled "Reforming Japanese Law to Introduce Electronic Transport Documents", examines the ongoing reform of Japanese law aimed at introducing electronic transport documents, situating it within the broader international context of the digitalisation of trade documents. Particular emphasis is placed on the introduction of the concept of "control" as the functional equivalent of possession. The proposed solution is aligned with the UNCITRAL Model Law on Electronic Transferable Records (MLETR), while at the same time being tailored to the specific characteristics of the Japanese legal system.

In the paper "The Requirement of *Periculum in Mora* in the Ship Arrest Procedure under Croatian Law", Professor Jasenko Marin, PhD, examines whether an applicant seeking the arrest of a ship in Croatia under the 1952 Convention Relating to the Arrest of Sea-Going Ships must furnish *prima facie* evidence of *periculum in mora*. He further considers whether, *de lege ferenda*, future amendments to the Croatian Maritime Code should abolish the obligation to provide *prima facie* evidence of such danger where the arrest of a ship is ordered on the basis of Croatian statutory provisions, namely the Maritime Code and the Enforcement Act.

Warren de Waegh, PhD, in his paper titled "Maritime Insolvency in an Era of Declining Multilateralism: Territoriality and International Judicial Cooperation", proposes a paradigm of cooperative territoriality for the conduct of insolvency

proceedings in the shipping sector. This approach proceeds from the premise that security for maritime claims against a ship is enforced at the place where the debtor's vessels are located, while coordinated action is achieved through international judicial cooperation. Against this background, the author assesses the relevance of the recently adopted Beijing Convention on the Judicial Sale of Ships, as well as the Judicial Insolvency Network (JIN) Admiralty Guidelines on the Management of Applications for the Arrest of a Vessel where the Vessel Owner or Bareboat Charterer is the Subject of Cross-Border Insolvency Proceedings.

The co-authored paper by Professor Petra Amižić Jelovčić, PhD, and Tina Škugor, MEcon, entitled "The Role of Frontex in the Implementation of the Entry/Exit System (EES)", analyses the role of Frontex in the implementation of the Entry/Exit System (EES), an automated system for recording the entry and exit of third-country nationals at the external borders of the Schengen Area. The authors specifically consider Frontex's contribution to border management, security, and the effective implementation of the EES.

"Hull Insurance of Leased Aircraft: In Peace and War Time", a paper co-authored by Associate Professor Iva Savić, PhD, and Ivan Modrić, LLM, examines aircraft hull insurance, with particular emphasis on leased aircraft and the issues arising in connection with insurance cover for war risks. The relationship between "all risks" cover and "war risks" cover is analysed through the lens of the judgment in *AerCap v AIG Europe, Lloyd's and others.*

The paper by Katarzyna Stalmach, MA student, under the title "State Responsibility in Combat Operations Involving Sea Drones", examines State responsibility for combat operations involving sea drones, with particular emphasis on responsibility for internationally wrongful acts. The paper considers whether a State may be held responsible where an algorithm-operated sea drone acts beyond the scope of the State's intent or the objectives set by its commander. To this end, the author analyses the Draft Articles on Responsibility of States for Internationally Wrongful Acts and the "effective control" test as applied by the International Court of Justice in its judgment in the case concerning *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America).*

In addition to scholarly papers, *Poredbeno pomorsko pravo = Comparative Maritime Law* traditionally publishes case notes. The recording and interpretation of case law contribute significantly to the development of maritime law doctrine, which makes these contributions valuable to a wide readership. Among the case notes published in this issue, Zoran Tasić, LLM, reviews the decision of the Supreme Court of the United Kingdom in *FIMBank Plc v KCH Shipping Co Ltd* and

the question of the time bar under Article III, Rule 6 of the Hague and Hague-Visby Rules. Vesna Skorupan Wolff, PhD, reports on four decisions of the Croatian courts. These decisions concern liability for bodily injury sustained by a diver and the injured party's contribution to the occurrence of the damage; the obligation to pay berthing fees following the termination of a berthing contract; the shipbuilder's liability for latent defects in a ship and the calculation of the applicable time bar; and the question of exclusive territorial jurisdiction in a dispute arising from the delayed return of a boat after the termination of a boat rental contract.

This issue also features reviews of two foreign books, prepared by Associate Professor Adriana Vincenca Padovan, PhD: *International Maritime Law and Practice: Comparative Law in Context* by Professor Časlav Pejović, PhD, and *Le vendite all'imbarco: nel diritto e nella prassi del commercio internazionale* by Associate Professor Daniele Casciano, PhD.

Finally, with deep respect, we bid farewell to Professor Emeritus Ivo Grabovac, PhD, and Slobodan Kaštela, PhD. In the obituaries prepared by Professor Dragan Bolanča, PhD, and Associate Professor Adriana Vincenca Padovan, PhD, we remember their significant contributions to scholarship and professional practice in the field of maritime and transport law, as well as their long-standing friendship with and close ties to the Adriatic Institute.

We believe that this issue of the journal, owing to the diversity of the topics and questions addressed, represents a valuable contribution to contemporary legal scholarship and practice in the fields of maritime and transport law and the international law of the sea. The papers published here reflect the dynamic development of these branches of law, which are confronted by the challenges of digitalisation, new technologies, the cross-border effects of maritime insolvency, and shifting global political and security circumstances. This issue also reaffirms the importance of the comparative law approach in seeking answers to the complex questions facing contemporary shipping. In keeping with the long-standing tradition of *Poredbeno pomorsko pravo = Comparative Maritime Law*, the editorial board was guided, in selecting the contributions for this issue, by the principle of combining theoretical analysis with the comparative study of legislation, international instruments, and case law. We therefore hope that the contributions will stimulate further research and professional debate in the fields of maritime and transport law and the international law of the sea, and that they will serve readers as a valuable source of new insights.

We extend our thanks to all the authors for their excellent contributions, which have greatly enriched this issue of the journal. The quality of the published

contributions has undoubtedly been enhanced by the expertise, dedication and diligence of the reviewers and editors, to whom we also express our particular gratitude. Lastly, we are delighted by the interest our journal continues to attract among its loyal readers, as well as among those who are yet to join their ranks.

**Professor Arsen Bačić, PhD, Editor-in-Chief**