

**Mr. sc. Petar Čovo / M. Sc.**  
Sveučilište u Zadru / *University of Zadar*  
Mihovila Pavlinovića bb, 23000 Zadar  
**Mr. sc. Ante Mrčela / M. Sc.**  
Ivana Gundulića 22, 21000 Split  
**Dr. sc. Hrvoje Baričević / D. Sc.**  
Sveučilište u Rijeci / *University of Rijeka*  
Pomorski fakultet u Rijeci /  
*Faculty of Maritime Studies Rijeka*  
Studentska 2, 51000 Rijeka  
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## “CRNI ČARTER” U REPUBLICI HRVATSKOJ

### *BLACK CHARTER IN THE REPUBLIC OF CROATIA*

#### SAŽETAK

Svrha i cilj ovoga rada je sistematizirati, opisati i analizirati oblike, te procijeniti razmjere zastupljenosti “crnog čartera” u Republici Hrvatskoj i formulirati smjernice za njegovo smanjenje i suzbijanje. Nelegalno iznajmljivanje stranih plovila u našem moru, popularno nazvano “crni čarter”, ima značajan udio u sivoj ekonomiji Republike Hrvatske i državnom proračunu iz godine u godinu nanosi golemu i teško procjenjivu štetu. Prema dostupnim podacima i procjenama radi se o najmanje deset tisuća uglavnom stranih jahti i brodica koje svakog ljeta plove našim Jadranom i to u nelegalnom iznajmljivanju. Te procjene govore da u punoj turističkoj sezoni, tijekom tri ljetna mjeseca efektivnog rentiranja tih plovila, hrvatski državni proračun, samo zbog neplaćanja PDV-a i poreza na dobit izgubi više od 300 milijuna kuna. U radu je korišteno više znanstvenih metoda, među kojima induktivna i deduktivna metoda, statistička metoda i ekspertna metoda. Primijenjene metode, ukazuju na relativno visok udio zastupljenosti “crnog čartera” u Republici Hrvatskoj i to sve do 2005. godine, kada je donesena nova Uredba o dolasku i boravku stranih jahti i brodica u hrvatskom moru, što je rezultiralo značajnim smanjenjem “crnog čartera”. Glavni problem je u tome što čarter tvrtke ne naplaćuju usluge najma na račun svoje tvrtke osnovane u Hrvatskoj, nego izravno u inozemstvo, na račun offshore tvrtki. Inozemne čarter tvrtke zlorabe instituciju privremenog uvoza i mogućnost povrata PDV-a. Najmom kod čarter tvrtki i tromjesečnim rentiranjem tako uvezenih plovila uz minimalne troškove, korisnici tih povlastica zarađivali su od 50 000 do 80 000 EUR-a. Svakako je potrebno usklađivanje hrvatskog zakonodavstva sa zakonima i standardima EU-a, što nije samo naša obveza u već pokrenutim pristupnim pregovorima, nego i nužnost, kako bi se izbjegla različita tumačenja određenih propisa i različita postupanja carinskih, poreznih i pomorskih tijela u postupanju naspram “crnom čarteru”.

**Ključne riječi:** “crni čarter”, offshore kompanije, vinjeta, učinci, nadzor

#### ABSTRACT

The purpose and aim of this paper is to systemize, describe and analyze the forms, as well as to estimate the share of “black charter” in Croatia, and to formulate guidelines for its decrease and control. Illegal charter of foreign crafts in our waters, known as “black charter”, accounts for a considerable share of grey economy in Croatia and causes, year by year, a severe damage to the State Budget that is hardly to assess. According to the available data and estimates there are at least ten thousand mainly foreign yachts and boats in our part of the Adriatic Sea every summer that are illegally chartered, and against some estimates due to effective charter of those crafts in high season during three summer months, the Croatian State Budget loses more than Kn 300 million only from non-payment of VAT and profit tax. A number of methods, including the inductive and deductive ones, statistical and expert methods, have been used in this paper. The methods applied show a comparatively large proportion of “black charter” in Croatia until 2005 when a new Regulation on Arrival and Stay of Foreign Yachts and Boats in Croatian Water was adopted. However, since then it has been considerably decreased. The main problem is that the charter companies do not charge the charter services to the account of their company established in Croatia, but directly to the account abroad, to off-shore companies’ account. Foreign charter companies abuse the regulations on temporary import and VAT rebate. By charter with charter companies and through a three-month charter of crafts imported in this way, under minimum costs, the beneficiaries of those benefits used to earn between Eur 50,000 and 80,000. It is by all means necessary to carry out the approximation of Croatian legislation with EU laws and standards, which is not only required by the accession negotiations opened with the EU, but is also essential in order to avoid different interpretations of certain regulations and different procedures taken by customs, tax and maritime authorities against “black charter”.

**Key words:** Black charter, Off-shore companies, Vignette, Effects, Supervision

## UVOD

Tijekom 2001. godine u Republici Hrvatskoj, uočene su prve pojave oglašavanja čarter tvrtki koje vrše bukiranje turista za svoja plovila iako nisu registrirane za poslove agencije, kao i pojave "crnog čartera" kojim se prikriva stvarna dobit i uskraćuju državna porezna davanja.

Tako je tijekom 2002. godine u zajedničkim kontrolama statusa stranih plovila smještenih na širem području splitskog akvatorija, sukladno odredbama Konvencije o privremenom uvozu, izvršenim od strane djelatnika Carinarnice, Porezne uprave, MUP-a Republike Hrvatske, utvrđeno da su njihovi vlasnici, korisnici ili opunomoćenici, korištenjem istih plovila izvršili carinski prekršaj. Za vrijeme kontrole nijedna marina i lučica u Republici Hrvatskoj, osim ACI marina, nisu posjedovale opće odobrenje nadležne carinarnice za pružanje usluga stranim plovilima na godišnjem vezu.

Zajedničkim kontrolama je utvrđeno da se zlouporabom prava na privremeni uvoz plovila pod stranom zastavom, izbjegavanjem plaćanja carina i poreza, poslužilo više uglednih državljana Republike Hrvatske. Sukladno pozitivnim zakonskim propisima Republike Hrvatske, pravo na takav privremeni uvoz mogu ostvariti samo osobe sa sjedištem, prebivalištem ili uobičajenim boravkom na teritoriju druge države, ali ne i hrvatski državljani sa stalnim prebivalištem u Republici Hrvatskoj.

Carinska uprava, Ministarstva financija procjenjuje da je tijekom 2001. godine u Republici Hrvatskoj na taj način uvezeno 1.000 jahti i velikih motornih brodova, koji plove Jadranom u "crnom čarteru". Tako "privremeno" uvezene jahte i brodovi raspoređeni su duž cijele jadranske obale, od Rovinja do Dubrovnika, ali Carinska uprava misli da je najveća koncentracija tako uvezenih plovila pod stranom zastavom i krivotvorenim dozvolama i vlasničkim certifikatima smještena u ACI-jevima marinama Ičići i Split [7].

Od ljeta 2005. godine do konca 2008. godine u akcijama suzbijanja "crnog čartera" na Jadranu od strane lučkih kapetanija najvećih pomorskih središta, 27 plovila su privremeno oduzeta, od čega je 20 uzapćeno, dok su tri pravomoćnim presudama oduzete. Za ostale se vodi postupak na Visokom prekršajnom sudu glede oduzimanja, jer su zatečene u "crnom čarteru".

## INTRODUCTION

In 2001 it was for the first time observed that some charter companies in Croatia were advertising bookings of tourists for their crafts although they had not been registered as charter agencies. "Black charter" that conceals actual profit and withholds taxes due to the state also occurred in the same year.

In 2002 during the joint inspection of foreign craft status in the larger Split maritime zone by customs, fiscal, Croatian Interior Ministry officers, carried out in compliance with the provisions of the Convention on Temporary Importation, it was found out that their owners, users or accredited parties violated customs regulations when using those crafts. The inspection showed that not a single marina or a boat dock, except the ACI marinas, possessed a general permit by issuing customs authorities authorizing them to render services to foreign crafts with annual berths.

The joint inspection also showed that a number of respected Croatian citizens had been involved in the abuse of rights on temporary import of crafts under foreign flags in order to avoid the payment of duties and taxes. Pursuant to the Croatian positive law, only the persons residing, living or normally staying in the territory of another country, but not the Croatian resident nationals, are entitled to that temporary import.

Customs Administration of the Ministry of Finance estimates that 1,000 yachts and large motor boats, which sail in the Adriatic within the "black charter", were imported in this way to Croatia in 2001. Such "temporary" imported yachts and boats can be found alongside the Adriatic coast, from Rovinj to Dubrovnik. However, Customs Administration is of the opinion that the highest concentration of the crafts under foreign flags imported in this way with forged permits and ownership certificate is in the ACI marinas Ičići and Split (Slobodna Dalmacija, 18/5/2002, p. 9)

From the 2005 summer until the end of the year 2008, in the actions taken by the port authorities of the largest ports to prevent "black charter", 27 crafts were detained, of which 20 were seized, while 3 of them were forfeited by final judgement. The proceedings for other crafts caught in "black charter" have been brought before the High Magistrates Court to decide upon the forfeit.

Numerous intermediate houses like the LBC Group, have openly advertised their services in Croatian publications and specialized publications like "MORE", which included tax counsel-

Brojne posredničke agencije poput LBC Groupe, u hrvatskim tiskovinama i specijaliziranim časopisima, poput Mora, otvoreno su reklamirale svoje usluge u koje spada i porezno savjetovanje, osnivanje rezidentnih računa i offshore kompanija i briga o njihovom poslovanju.

Činjenice govore da nautički turizam u posljednjim godinama ipak ostvaruje sve bolje rezultate, čemu je pridonio stroži zakonski okvir kao i donošenje Pomorskog zakonika kojim je donekle suzbijen "crni čarter".

## 1. NASTANAK I DJELOVANJE ČARTER TVRTKE

Offshore kompanije su kompanije registrirane u bilo kojoj zemlji izuzev svoje domicilne zemlje. U svijetu opće globalizacije rijetke su kompanije koje ne stupaju u poslovne odnose izvan granica država u kojima su osnovane. Kako svaka država ima svoje posebnosti u poreznom sustavu, tako je potrebno posvetiti veliku pozornost odabiru lokacije gdje će kompanija biti osnovana.

Ključne destinacije za osnivanje kompanija u posljednjih dvadeset godina postaju tzv. offshore odredišta. Riječ je o mjestu, oblasti ili državi gdje je zakonom zajamčena diskrecija i veliki manevarski prostor za financije i poslovanje.

Bez dvojbe, tijekom posljednjih godina dogodio se veliki transfer iz tradicionalnih brodarskih odredišta poput Velike Britanije, Norveške i Grčke u offshore brodarska područja poput Belizea, Gibraltara, Paname i Otoka Man. Nekoliko je razloga za utemeljenje brodarske kompanije u offshore području, kao primjerice nizak trošak registracije brodova, kupovina brodova oslobođena svih davanja i profit oslobođen poreza. Uz registraciju brodova u navedenim područjima, preuzima se i registracija jahti.

Offshore kompanije omogućavaju veliku manevarsku sposobnost u području međunarodnog poslovanja, u kojima je najvažnija anonimnost. Kompanija ne mora, a najčešće i ne smije imati bankovni račun u zemlji u kojoj je osnovana. Uzevši u obzir razne faktore poput reputacije, poslovnosti, infrastrukture, iskustva, pa do cijene formiranja i održavanja, postoje offshore područja, kao primjerice u Wyomingu, Gibraltaru, Bahamima, Panami, Otok Man u

ling, opening of resident bank accounts, and establishment of off-shore companies and supervision of their business operations.

Facts show that nautical tourism has been gaining better results in recent years after the adoption of the Maritime Code end 2004 that includes stricter legal provisions limiting black charter to some extent.

## 1. ESTABLISHMENT AND OPERATIONS OF A CHARTER COMPANY

Off-shore companies are the companies registered in any other country than their own country of domicile. In the world of general globalization few are those companies that do not make business outside the country they have been established in. As the tax system of each country has its own special characteristics, it is of a great importance to choose the location wherein to establish the company.

In the last twenty years the so called off-shore destinations have become the most popular key locations for the establishment of companies. They are places, regions or countries where full confidentiality is granted by law leaving ample room to manoeuvre in financial and business fields.

There is no doubt that recently there has been a large transfer from traditional maritime destinations like the UK, Norway and Greece to off-shore maritime destinations like Belize, Gibraltar, Panama and Isle of Man. There are a number of reasons for the establishment of a shipping company in the off-shore region, e.g. low ship registration fee, the purchase of ships is exempted from all duties, and the profit is cleared of tax. In addition to the ship registration, the registration of yachts is also available in the above regions.

Off-shore companies enable an ample room to manoeuvre in the international business waters where the preservation of anonymity is of the utmost importance. A company needs not, and even most frequently, must not have a bank account in the country where it has been founded. There are such off-shore regions as Wyoming, Gibraltar, Bahamas, Panama, Isle of Man, Guernsey and Jersey, British Virgin Islands that are remarkable for their reputation, business efficiency, infrastructure, experience, and also the cost of founding and maintenance.

Upon the selection and registration of an off-shore company, there follows the opening of a



Irskom moru, Guernseyu i Jerseyu, Belizeu, Britanskim Djevičanskim Otocima.

Nakon odabira i registracije offshore kompanije, sljedeći korak je otvaranje bankovnog računa u inozemstvu u ime offshore tvrtke, najčešće u Austriji, Lihtenštajnu ili Luksemburgu, zbog strogih propisa o čuvanju bankarske tajne.

Nakon toga se "nabavljaju" plovila za charter na više načina, rabljena se obično preuzimaju u podnajam od različitih stranih fizičkih i pravnih osoba te se vrši ishođenje charter licence, privremenog carinskog uvoza po Aneksu E i charter permita na ime domaće charter tvrtke, odnosno od domaćih fizičkih i pravnih osoba (plovila su pod hrvatskom zastavom). Nova plovila se kupuju putem leasinga kod neke od austrijskih banaka (najčešće kod *Hypo Leasing*) pri čemu se odmah uplaćuje 30% od ukupne vrijednosti plovila, dok se ostali dio iznosa leasinga s pripadajućom kamatom dijeli na godišnje rate sukladno odabranom razdoblju.

Plovilo u charteru "otplaćuje samo sebe", po neslužbenim procjenama dovoljna je realizacija od 12 do 14 charter tjedana za otplatu godišnje leasing rate plovila, dok ostali tjedni najma plovila idu u bruto profit.

Samo bukiranje plovila vrši se u razdoblju jesen tekuće – proljeće sljedeće godine i to putem interneta, preko oglasa u inozemnom tisku, raznih inozemnih posrednika i sl. Potencijalni korisnici bukiranja odmah po rezervaciji plaćaju 50% cijene direktno na račun offshore tvrtke u inozemstvu, a ne na službeni žiro-račun domaće tvrtke u Republici Hrvatskoj. Preostali iznos cijene turist plaća 7 dana prije dolaska na rezervirano plovilo u matičnoj domaćoj marini.

U poslovnim knjigama domaće tvrtke veza s offshore kompanijom se formalizira prilaganjem tzv. "ugovora o poslovnoj suradnji" u kojem se navodi kako je domaća tvrtka samo "podružnica" offshore kompaniji koja na području Republici Hrvatskoj obavlja poslove chartera u ime narečene inozemne kompanije.

Na naprijed opisani način se iz inozemne tvrtke uplati na žiro-račun domaće tvrtke cca 5 – 10% od ukupnog iznosa stvarno zarađenog novca tijekom charter sezone, od kojeg iznosa se onda podmiruju svi rashodi domaće tvrtke da bi se na neznatnu dobit platio minimalni porez. Sukladno naprijed narečenom, postavlja se pitanje kako Porezna uprava u Republici Hrvatskoj tijekom obrade godišnjih prijava priznaje

bank account on behalf of the off-shore company abroad, the most frequently in Austria, Lichtenstein or Luxembourg as there exist strict regulations on bank secrecy.

The next step is the "procurement" of charter crafts that is carried out in a number of ways; used crafts are usually subleased from various foreign physical and legal persons followed by obtaining a charter licence, temporary customs importation under Annex "E" and a charter permit in the name of a domestic company, or from domestic physical and legal persons (the crafts are under the Croatian flag). New crafts are purchased through leasing with some of the Austrian banks (the most frequently with Hypo Leasing) when 30 % off the craft value is paid immediately, while the residual lease amount with the applicable interest is divided into annual instalments based on the selected repayment period.

A charter craft is "self-repaid": according to some unofficial estimates it is sufficient to realize 12 to 14 charters a week to repay the annual craft leasing rate, while the other weekly charters make gross income.

The craft booking itself is made in autumn of the current year and in spring of the next year by Internet, via advertisements in foreign publications, via various foreign intermediaries, etc. Potential booking beneficiaries pay immediately upon the booking 50 % off the price directly to the foreign account of the off-shore company, and not to the official drawing account of the domestic company in Croatia. A tourist pays the outstanding amount 7 days prior to the arrival on-board the craft booked in the domestic home marina.

In business books the relationship of a domestic company with an off-shore company is formalized by attaching the so-called "agreement on business co-operation" in which it is stated that the domestic company is only "a branch office" of the off-shore company, which does the charter business in Croatia in the name of the said foreign company.

In the above way the foreign company pays to the drawing account of the domestic company approx. 5-10 % off the total amount earned actually during the charter season, and out of this amount all the expenditures of the domestic company are settled so that only the minimum tax is paid on the minor profit. In view of the above, one can ask how the Croatian Tax Administration, when processing annual income tax return, accepts "aggregate" invoices from abroad that do not show the collections itemised per particular services

“skupne” račune pristigle iz inozemstva, u kojima se ne vide obilježja naplate pružanja pojedinih usluga, kao primjerice konkretne charter rute na moru s datumom, iznosom, nazivom plovila i sl.

Poznato je da je konkretne charter usluge tijekom sezone u potpunosti izvršila domaća tvrtka na području Republike Hrvatske, a ne inozemna, u stvari to je vlastita offshore tvrtka koja sama sebi dostavlja skupne račune o izvršenim uslugama.

## 2. ZAKONSKA PODLOGA INTENZIVIRANJA PROGONA “CRNOG ČARTERA”

Ranijim hrvatskim propisima bilo je dopušteno da na jahti i brodici boravi tko hoće i koliko hoće, a od početka 2005. godine u primjeni je novi pomorski propis, koji je usmjeren na smanjivanje i iskorjenjivanje “crnog čartera” na Jadranu, propisivanjem posjedovanja vinjete za strane brodice i jahte.

U primjeni je nova Uredba o dolasku i boravku stranih jahti i brodica u hrvatskom moru, koja je stupila na snagu u proljeće 2005. godine. Tako se po prvi put regulirao način zakonskog nautičkog čartera na Jadranu, koji smiju obavljati samo tvrtke registrirane u Hrvatskoj za tu djelatnost. Svi ostali za ukrcavanje i vožnju gostiju na svojim plovilima trebali su ispuniti potrebne formulare, najaviti goste i kazati kada će se i koliko zadržati na njihovim brodovima.

Vlasnici stranih rekreacijskih plovila (jahta i brodica) moraju kupiti vinjetu za plovilo, ako žele nesmetano ploviti u našem moru. U listu popisa osoba koje borave na plovilu tijekom važenja vinjete može se upisati dva puta veći broj osoba od mogućega broja registriranih putnika, plus 30% [5]. To praktično znači da je obveza stranog vlasnika plovila da u nadležnoj lučkoj kapetaniji ili ispostavi ishodi vinjetu za cjelodnišnju plovidbu Jadranom.

Naravno, pod krinkom tobožnjih stalno novih rodaka i prijatelja na brodu su se tako svakog tjedna mijenjali gosti koji su tu uslugu iznajmljivanja broda plaćali izravno vlasniku, a da nigdje nisu bili prijavljeni niti je i jedna pristojba za njih plaćena državi. Koliki se je novac odlijevao mimo ikakve kontrole u privatne džepove, najbolje govori podatak da je u najboljoj

such as actual charter routes on the sea with dates, amounts, name of the craft, etc.

It is known that particular charter services during the season are completely provided in Croatia by a domestic company, and not a foreign one. In fact, the same off-shore company delivers to itself the aggregate invoices on the services provided.

## 2. LEGAL BASIS INTENSIFYING THE FIGHT AGAINST BLACK CHARTER

Previous Croatian regulations allowed that anyone can stay on board the yacht or boat any time he wants. Since early 2005 the new maritime regulations have been put into effect with the aim to lower and eliminate “black charter” in the Adriatic Sea by requiring the purchase of a “vignette” for foreign yachts and boats.

The new Regulation on Conditions of Arrival and Stay of Foreign Yachts and Boats in Internal Sea Waters and Territorial Sea of the Republic of Croatia, which came into force in spring 2005, is being applied. This is for the first time that the legal nautical charter in the Adriatic has been regulated in a way that this can be done only by companies registered in Croatia for such a business. Those others should fill in necessary forms for going on board and sailing, announce the guests and state when and for which period they will stay aboard their vessels.

The owners of foreign recreational crafts (yachts and boats) must buy a vignette for their crafts if they want to sail in our sea without any problem. In the list of persons that stay on the craft during the validity of the vignette there can be registered a doubled total number of persons the craft is designed to carry increased by additional 30 % of the number of persons that craft is designed to carry (Customs Journal, No.1./2006, p. 21.). This actually means that the foreign craft owner is obligated to obtain a vignette for the whole annual sailing in the Adriatic from the competent Harbourmaster's Office or its local Branch Office.

Of course, under cover of apparently new cousins and friends aboard the craft, the people on board exchange every week, and they used to pay the boat rent to the owner directly, but they were not registered anywhere nor any fee to the government was paid. The amount of money that actually flowed into private accounts without any control can be best deduced from the fact that in the best nautical season in 2004, in which all the

nautičkoj sezoni 2004. godine koja je oborila sve rekorde u dužini trajanja i brojnosti nautičara, posebice onih na charter plovilima, u državni proračun službeno ušlo tek 55 milijuna kuna od nautičkog turizma.

Zakonom su predviđene kazne za fizičke osobe obrtnike i to od 3.000 do 700.000 kuna, a za prekršaj pravne osobe od 3.000 do 900.000 kuna, koji se zateknu u crnom charteru.

S carinsko-pravnog motrišta bitna je podjela na domaća i strana plovila, te na ona što prometuju s inozemstvom i ona koja to ne čine. Strana plovila imaju status strane robe i prema naravi stvari su pod carinskim nadzorom sve dok su u hrvatskome carinskom području, odnosno u unutarnjim morskim vodama i teritorijalnome moru. Prema Istanbulske konvenciji i hrvatskima carinskim propisima, privremeni uvoz plovila može se odobriti uz potpuno oslobođenje od plaćanja carine i poreza (Aneks C – Privremeni uvoz plovila za individualnu uporabu) ili djelomično oslobođenje od plaćanja carine i poreza (Aneks E – Privremeni uvoz plovila za iznajmljivanje).

Usklađivanje ukupnoga hrvatskog zakonodavstva sa zakonima i standardima EU-a nije samo naša obveza u već pokrenutima pristupnim pregovorima nego i nužnost, kako bi se izbjegla različita tumačenja određenih propisa i različita postupanja carinskih, poreznih i pomorskih tijela u postupanju naspram "crnom charteru". No, tek će *screening process* dati točan odgovor o tome koliko su hrvatski zakoni usklađeni sa zahtjevima EU-a i gdje je nužno dodatno usklađivanje.

U Tablica 1.: Kontrola plovila u razdoblju od 2006. do 2009. godine, prikazan je broj izvršenih kontrola koje su provedene nad plovilima koja su bila smještena u lukama, pristaništima

records on the duration and the number of boaters, especially those on charter crafts, were broken, only Kn 55 million of nautical tourism officially entered the State Budget.

The law provides for penalties: from Kn 3,000 to Kn 700,000 for physical persons-tradesmen, and from Kn 3,000 to Kn 900,000 for legal persons if they are caught in the "black charter".

From the customs-legal point of view it is essential whether the craft is a domestic or foreign one, and whether the business is done with abroad or not. Foreign crafts are considered as foreign goods and consequently are under customs supervision while they are in the Croatian customs territory, i.e. within the inland sea waters and territorial sea. According to the Istanbul Convention and Croatian Customs Regulations, temporary import may be granted on the full customs- and tax-free basis (Annex C – Temporary Import of Crafts for Individual Use) or on partly customs- and tax-free basis (Annex E – Temporary Import of Crafts for Renting).

The approximation of Croatian legislation with the EU laws and standards is not only our obligation incurred for the EU accession, but also the necessity, in order to avoid different interpretation of certain regulations, as well as different procedures applied by customs, tax and maritime authorities with regard to "black charter". However, only the screening process will provide an exact answer to what extent the Croatian laws have been harmonized with the EU requests and where additional harmonization is necessary.

Table 1 Craft Inspections in the Year 2006 to Year 2009 shows the number of inspections made on the crafts in ports, harbours or on the crafts in Croatian territorial sea.

The inspection was aimed at the control of the temporary import of the crafts based on the Annex C of the Convention on the Temporary Import, as well at the control of the craft importation for charter business.

**Tablica 1.** Kontrola plovila u razdoblju od 2006. do 2009. godine (Euro)

**Table 1** Craft Inspections from 2006 to 2009 (EUR)

Godina	2006.	2007.	2008.	2009.	Ukupno
<b>Broj kontrola</b>	942	365	1159	321	2787
<b>Broj nepravilnosti</b>	123	79	115	53	370
<b>Naknadni obračun carinskog duga</b>	3480105,55	1075638,44	3971070,45	2761980,00	11288794,13

Izvor: Carinska uprava Republike Hrvatske, 2010. g.

Tečaj eura na dan 13. 02. 2010.

Source: Customs Authority of the Republic of Croatia, 2010

EUR Rate on 13/02/2010



ili su plovila unutar teritorijalnog mora Republike Hrvatske.

Nadzorom je obuhvaćena kontrola privremenog uvoza plovila temeljem Aneksa C Konvencije o privremenom uvozu kao i kontrola uvoza plovila za obavljanje gospodarske djelatnosti čartera.

Kada se nakon obavljenih kontrola utvrde nepravilnosti vezane za uporabu plovila pod stranom zastavom, pokreću se postupci za naplatu carinskog duga i poreza, za plovila čiji vlasnici suprotno odredbama Carinskog zakona i Konvencije o privremenom uvozu koriste plovila.

Isto tako, ako su ostvarene sve zakonske pretpostavke, protiv vlasnika plovila pokreću se i prekršajni postupci koje provode vijeća za prekršaje nadležne carinarnice.

Prema hrvatskim propisima iznajmljivanje plovila može obavljati jedino tvrtka registrirana u Hrvatskoj i to plovilom pod hrvatskom zastavom. Propisane kazne kreću se od 10.000 do 500.000 kuna, uz zaštitnu mjeru oduzimanje plovila kojim je prekršaj učinjen.

### 3. REZULTATI PROCJENE UKUPNE SIVE ZONE

U Hrvatsku godišnje uplovi u prosjeku 55.000 stranih plovila koja nisu u čarteru, to je ipak glavnina nautičkog turizma kod nas. Većina ih dolazi iz četiri europske države: Njemačke, Italije, Austrije i Slovenije. Procjenjuje se kako zajedno s čarterom u nas godišnje boravi oko 550.000 nautičara. Nema dostupnih pokazatelja kako i na koji način točno utvrditi prihod od nautičkog turizma. No izračunat je prihod od oko 600 milijuna eura u 2004. godini. S obzirom na porast nautičkog turizma procjenjuje se da je u 2006. godini ukupni prihod iznosio oko 700 milijuna eura (iznajmljivači plovila, marine, restorani, hoteli, benzinske crpke, lokalna samouprava, država, destinacije...), što predstavlja oko 10 posto ukupnog prihoda ostvarenog od turizma ([www.poslovni.hr](http://www.poslovni.hr) 34383).

Prema procjenama u punoj turističkoj sezoni tijekom tri ljetna mjeseca rentiranja "crnog čartera", hrvatski državni proračun, samo zbog neplaćanja PDV-a i poreza na dobitak, izgubi više od 300 milijuna kuna. Procjene govore kako je godišnje oko 150 milijuna eura bilo u opticaju u

When after the inspection, offences regarding the use of crafts under foreign flags are found, proceedings are taken for the collection of customs debt and taxes from the owners of the crafts who use the crafts contrary to the provisions of the Customs Law and the Convention on the Temporary Importation.

Likewise, if all legal presumptions have been fulfilled, misdemeanour trials are brought against the craft owner by the Council for Misdemeanours of the competent Customs Office.

According to the Croatian regulations only the company registered in Croatia may rent the crafts, and only those flying the Croatian flag. Prescribed penalties range from Kn 10,000 to 500,000, with precautionary attachment of craft by which the offence has been committed.

### 3. ASSESSMENT RESULTS OF TOTAL GREY ECONOMY

An average of 55,000 foreign crafts, which are not in charter business, sail each year in Croatia, and these present the majority of nautical tourism. The majority of crafts are from only four countries: Germany, Italy, Austria and Slovenia. It is estimated that, together with the charter, about 550,000 nautical tourists visit Croatia every year. No indicators are available on how and in which way to specify the income from nautical tourism. However, the income of approximately EUR 600 million was calculated in 2004. Considering the rise of nautical tourism it is estimated that the total income in 2006 reached about EUR 700 million (craft renters, marinas, restaurants, hotels, petrol stations, local self-government, government, destinations...) which accounts for approximately 10 % off total tourism revenues ([www.poslovni.hr](http://www.poslovni.hr) 34383).

As estimated, in high season, during three summer months of renting within the "black charter", the Croatian State Budget loses more than KN 300 million because of the VAT and profit tax non-payment. It is estimated that about EUR 150 million circulated annually within the "black charter" business. No profit tax, company capitalization tax, income tax or other specified fiscal charges were paid, and likewise no employment in this field occurred.

Since the adoption of the new Maritime Code end 2004, the order to the charter business has been brought, and the crafts under foreign flags have not been allowed to do business in the Republic of Croatia. However, it is possible to do it if a yacht or a boat flies the Croatian flag, and a

"crnom čarteru". Nije plaćen porez na dobit, porez na tvrtku, porez na dohodak i ostala predviđena davanja, isto tako nije bilo zapošljavanja.

Donošenjem Pomorskog zakonika koncem 2004. godine, uveden je red i zabranjena je mogućnost plovilima pod stranom zastavom obavljanja djelatnosti u Republici Hrvatskoj. No, to je ipak moguće ukoliko jahta ili brodica vije hrvatsku zastavu, a čarter tvrtka mora biti registrirana u našoj zemlji. Već nakon godinu dana stanje je bilo bolje, a novoutvrđenim načinom iznajmljivanja plovila broj čarter tvrtki znatno je porastao. Tako je primjerice, 2004. godine registrirano 148 tvrtki koje su se legalno bavile čarterom, dok se 2006. godine taj broj popeo na 719 čarter tvrtki s više od tri tisuće jahti i brodica namijenjenih iznajmljivanju. Rezultat tih mjera je porast broja nautičara u čarteru za 52 %. Više od 178.000 nautičara bilo je u 2005. godini, dok je u 2006. godini bilo 271.581 nautičar.

Registrirani prihodi od čartera u 2005. godini iznosio je 375,2 milijuna kuna, dok je u 2006. godini bio oko 420 milijuna kuna. Prosječno plovilo u Hrvatskoj je jahta od 12 metara za koju se tjedan najma u lipnju plaća 2.200 eura, a u kolovozu i rujnu oko 3.000 eura. To dovoljno govori koliko je taj posao unosan i zašto je bilo problema oko obavljanja ove djelatnosti.

U posljednjih nekoliko godina uočeno je da se crni čarter ipak nije iskorijenio, već se istim isključivo bave vlasnici brodova pod stranim zastavama. Prema posljednjim podacima u Hrvatskoj posluje oko 800 čarterskih agencija koje iznajmljuju više od 3.000 plovila. Isto tako nemali broj tih agencija, iako hrvatskih, imaju svoje bankovne račune otvorene u inozemstvu, na koje im se uplaćuje novac za unajmljivanje plovila. Naravno, da se veći dio te zarade kasnije ne prijavljuje u Hrvatskoj.

Prema dostupnim podacima na hrvatskom moru u "crnom čarteru" sve više ima stranih jahti, dužine od 18 do 23 m, koje goste ukrcaju u Veneciji ili Budvi, a nakon toga danima krstare našim morem. Te jahte prije toga se opskrbe i gorivom "bez takse" u Crnoj Gori ili Italiji, a koje Hrvatska još nema. Najam tih luksuznih brodova na tjedan iznosi od 25.000 eura do 50.000 eura, a često i znatno više. Usto je poznato da u popularnim hrvatskim destinacijama na južnom Jadranu, kao i u nekim crnogorskim

charter company is registered in our country. Just a year after, the situation in the charter business improved, and the new provisions on the craft renting influenced the considerable rise in the number of charter companies. For example, in the year 2004, 148 companies that did charter business legally were registered, while in 2006 there were 719 charter companies with more than three thousand yachts and boats intended for renting. The result of those measures is the rise in the number of boaters in charter by 52 %. In 2005 there were more than 178,000 boaters while in 2006 there were already 271,581 ones.

The registered charter revenue in 2005 amounted to KN 375.2 million while in 2006 it reached approximately KN 420 million. Crafts in Croatia are usually 12-meter long yachts for which weekly rental charges amount to EUR 2,200 in June, while in August and September these charges range about EUR 3,000. These facts are a sufficient proof of the profitability of the business and why there used to be so many problems concerning this business line.

In recent years it has been noted that the "black charter" has not been fully eliminated, but that only the owners of the crafts under foreign flags are engaged in this business. According to the latest available information there are about 800 charter agencies in Croatia, which rent more than 3000 crafts. At the same time, not an insignificant number of those agencies, although they have been registered as Croatian ones, have accounts opened abroad to which the rentals for their crafts are paid. Naturally, the majority of those earnings are not subsequently declared in Croatia.

According to the available information there have been more and more 18 to 23 long foreign yachts engaged in "black charter" in the Croatian part of the Adriatic Sea, which embark the passengers in Venice or Budva, and then cruise our sea for days. Those yachts tank up fuel "without monetary compensation" in Montenegro or Italy, however Croatia has not adopted this system yet. Rental charges for luxury crafts range from EUR 25,000 to EUR 50,000 a week, and sometimes even considerably more. On top of all, it is widely known that in some popular Croatian destinations in the South Adriatic, as well as in some Montenegro resorts, one should "grease someone's palm" ashore with EUR 500 to 1,000 to get the berth on a desired site.



ljetovalištima, određene ljude na kopnu treba podmititi s iznosom od 500 do 1000 eura da bi osigurali vez na željenoj poziciji.

#### 4. PRIVREMENI UVOZ PLOVILA

Predmet su razmatranja pravila koja sadrže uvjete za uvoz, registraciju i osobnu uporabu plovila, kakva u običajenim okolnostima pomažu u osiguravanju ponovnog izvoza i pojednostavnjenje formalnosti privremenog uvoza. U suprotnim prilikama služe za poduzimanje mjera za sprječavanje izbjegavanja plaćanja carinskih i poreznih davanja i pravno uređuju nezakonite situacije.

Carinski propisi do početka 2000. godine dopuštali su određene aktivnosti s plovilima koje su bile na štetu državnog proračuna, a pomorski propisi su u vezi s tim bili izmijenjeni tek koncem 2004. godine. Sve je to bilo nasljeđe stare "duty-free politike" prema kojoj je hrvatsko more bilo porezna oaza za strane nautičare i poligon za carinske i porezne utaje domaćih prevaranata. Ozbiljniji rad na otkrivanju, suzbijanju i procesuiranju nezakonitih radnji pri uvozu i uporabi plovila u RH-a počeo je tek 2003. godine, kad je MUP RH-a, Odjel za suzbijanje organiziranog kriminaliteta dao inicijativu da sva nadležna tijela (policajska, pomorska, carinska i porezna) zajedničkom koordinacijom spriječe i sankcioniraju postojeće nezakonitosti.

Sindrom porezne oaze prepoznao se, ne samo u nezakonitim radnjama brojnih vlasnika plovila, nego i u čestim nepravilnostima u radu spomenutih nadležnih tijela državne uprave. Rezultat svega je neusklađenost carinskih i pomorskih propisa, kao npr. registracija plovila bez carinjenja, prijavljivanje plovila lučkoj kapetaniji bez obavještanja carinske ispostave, nepostojanje informacijskog sustava u lučkim kapetanijama, pasivno prihvaćanje offshore zastava, dopuštanje "crnog čartera", neprimjerna evidencija uvezenih plovila, smještaj plovila bez odobrenja carinarnice, obustava postupka naplate carine i poreza za plovila vraćena u inozemstvo nakon što je kontrolom utvrđeno da su nezakonito uvezena, neekonomično čuvanje zaplijenjenih plovila i dr.

Nije bilo jednostavno napraviti zaokret u pogledu suzbijanja nezakonitosti s plovilima, izraženih u različitim oblicima zlouporaba, pri čemu je bilo osobito zahtjevno pitanje valjanog

#### 4. TEMPORARY CRAFT IMPORTATION

The subject of this issue is the analysis of the rules comprising the craft import, registration and personal use terms which, under usual circumstances, help in re-exportation and facilitate the temporary import formalities. Under the opposite circumstances, they are applied to take the necessary measures in order to prevent the evasion of customs duties and tax levies, and to regulate illegal situation.

Customs regulations, having been in effect up to early 2000, allowed certain activities regarding crafts that adversely affected state budget, while maritime regulations covering this area were amended only end 2004. That practice was the legacy of old "duty-free policy" which made the Adriatic Sea a tax shelter for foreign boaters and an area for the evasions of customs and taxes by domestic defrauders. More intense activities on detection, control and processing of illegal actions at the craft import and use in Croatia were taken in 2003, when the Ministry of the Interior of the Republic of Croatia, Department for the Prevention of Organized Crime, encouraged all the competent authorities (police, maritime, customs and tax) to prevent and penalize the existing illegalities by their joint coordination activities.

The tax shelter syndrome was recognized not only in illegal actions taken by many craft owners but also in repeated irregularities that characterized the activities of the above-mentioned competent national directorate authorities. This has resulted in the incompatibility between customs and maritime regulations, such as customs-free craft registration, the craft registration with harbourmaster's offices without notifying the competent customs offices, lack of information system within harbourmaster's offices, passive approval of offshore flags, tolerance towards "black charter", inadequate record of the imported crafts, craft mooring without the approval of customs offices, suspension of customs and tax collection procedures for the crafts sent back abroad after the inspection proved that they had been illegally imported, unprofitable safe-keeping of captured crafts, etc.

It was not easy to turn round regarding the prevention of illegalities in the craft charter business spotted in a number of various abuses, and additionally the proper interpretation of new regulations was especially demanding. In addition, the crafts are, as a rule, of high value so that each

tumačenja novih propisa. Osim toga, plovila u pravilu imaju veliku vrijednost, pa svaka mjera poduzeta radi uređivanja nezakonitog stanja (zapljena, naplata visokih davanja i sl.) postaje dodatni teret za angažirane djelatnike, a i zbog bojazni od moguće loše prosudbe.

#### 4.1. Prijenos privremenog uvoza

Prava i obveze korisnika određenog carinskog postupka mogu se, uz uvjete što ih odredi carinarnica, prenijeti na druge osobe koje ispunjavaju sve propisane uvjete za odgovarajući carinski postupak (čl. 8. Konvencije o privremenom uvozu i čl. 102. CZ-a) [6]. Prijenos te povlastice može odobriti samo carinarnica, a nikako lučka kapetanija s tim da osoba koja preuzima robu, kada su u pitanju prijevozna sredstva za osobnu uporabu, mora biti strana osoba, odnosno osoba s prebivalištem u inozemstvu. U protivnome, zbog neispunjenja uvjeta za stavljanje robe u postupak privremenog uvoza nastaje carinski dug, sukladno čl. 207. st. 1. toč. b CZ-a, a carinski je dužnik, jednako osoba s početnim odobrenjem za postupak privremenog uvoza, a nije ispunila obvezu ponovnog izvoza robe i osoba koja je bez odobrenja carinarnice preuzela na uporabu privremeno uvezenu robu (solidarni dužnici), iako ne ispunjava uvjete za uporabu te robe.

U takvoj okolnosti carinarnica je samo jednoga carinskog dužnika obvezala za plaćanje davanja i to osobu koja je preuzela plovilo, odnosno domaćeg kupca plovila koji je pri carinskoj kontroli zatečen kao novi korisnik plovila, a ne i stranu osobu koja je unijela plovilo na područje RH-a.

#### 4.2. Lažna registarska isprava

Brojna su plovila bila privremeno uvezena i plovila u našem moru na osnovi nevažeće registarske isprave, što je kasnije postalo poznato kao afera *Gvineja Bisau*, s obzirom da je te isprave izrađivao lažni otpravnik poslova te države u Konzularnom odjelu u Omišlju na Krku. Najčešće su takva plovila kupovale i rabile osobe s prebivalištem u RH-a. U svezi narečenog podnosile su se kaznene prijave, upravni postupak radi naplate davanja provodio se, a da se nije čekao završetak kaznenog postupka. Unatoč tome, u dijelu tih predmeta nastupila je zastara za naplatu carinskog duga, pa su bila obračunata samo porezna davanja.

measure taken to regulate the illegal situation (seizure, collection of high fiscal charges, etc.) burdens further the appointed employees, who are also anxious not to make potential poor judgement.

#### 4.1. Transfer of temporary importation

Rights and obligations of beneficiaries of certain customs procedure may, under the conditions laid down by the customs office, be transferred to third persons who meet all the conditions specified for the customs procedure in question (Article 8 of the Convention on the Temporary Importation and Article 102 of Croatian Customs Code) (Customs Journal No. 11/2008, p.34.). The transfer of that benefit can be approved by the customs only (never by harbourmaster's offices), provided that the person who takes the goods, when means of transportation for personal use are in question, is a foreign national or has a residence abroad. Otherwise, due to failure to meet the conditions concerning temporary importation there incurs a customs debt pursuant to the Article 207 (1) (b) of the Customs Code, while a customs debtor is the person to whom an initial approval for temporary importation procedure has been granted, and she/he failed to export the goods, as well as the person who has taken over the use of temporary imported goods (solidary debtors) although she/he does not meet the conditions of use of the goods in question.

Under that circumstance the Customs holds only one customs debtor liable to pay the duties, who is, in fact, the person who has taken the craft, or a domicile craft purchaser who has been found as the new craft user at the customs inspection, but not the foreign national who has taken the craft to the territory of the Republic of Croatia.

#### 4.2. Forged registration document

A large number of crafts were temporary imported and sailed our waters based on invalid registration documents. This became later known as the "Guinea-Bissau" affair since those documents had been made by a false chargé d'affaires of that country at the Consular Department in Omišalj, the island of Krk. Those crafts were most frequently bought and used by persons with Croatian residence. Criminal complaints regarding the above cases were filed, and the administrative procedure for the collection of fiscal charges was conducted although the criminal procedure had not been terminated. Nevertheless, for some cases the collection of customs debt could not be car-

Predmeti su zanimljivi za praksu, zbog ocjene Suda o nevaljanosti registarske isprave plovila, ali i zbog potvrde osnovanosti naplate poreza i kamate, što ih je u provedenu postupku obračunala carinarnica uz primjenu poreznih pravila o zastari iz čl. 90. OPZ-a, premda u provedenome upravnom postupku nije bio obračunat i carinski dug, jer je protekao trogodišnji rok zastare propisan za obavještanje carinskog dužnika o carinskom dugu sukladno čl. 225. st. 4. CZ-a.

Također, ima stajališta da se spomenuta odredba o roku za obavijest glede carinskog duga primjenjuje na ukupan dug, a ne samo o carinskom dugu, što bi značilo i za dug nastao na temelju Zakona o PDV-u i Zakona o trošarinama što ih obračunava Carinska uprava.

### 4.3. Vlasnici plovila hrvatski državljani

U nekoliko slučajeva uočeno je da su vlasnici plovila hrvatski državljani koji su imali prebivalište i uobičajeno mjesto boravka u Republici Hrvatskoj. Činjenično stanje utvrđivalo se, odnosno provjeravalo u HZMO-u (sudionici su najčešće bili u radnom odnosu u RH-a), u MUP-u RH poradi utvrđivanja prijavljenog prebivališta i Poreznoj upravi radi naplate poreza.

U obrazloženju presude Upravnog suda RH-a, kojom se tužbu odbija kao neosnovanu, tužitelj u tužbi ističe da ima uobičajeno mjesto boravka u inozemstvu (više od 183 dana u godini), sukladno čl. 37.st. 1. Općeg poreznog zakona. Međutim, iz podataka u predmetu, proizlazi da je carinarnica po službenoj dužnosti provjerila ispunjenost uvjeta iz čl. 5. Aneksa C Konvencije o privremenom uvozu (NN 16/98.) plovila koje je privremeno uveo uz potpuno oslobođenje od plaćanja carine i poreza.

Izvršenom provjerom, kod nadležnih tijela utvrđeno je da tužitelj ima prijavljeno prebivalište u RH-a, te da je u HZMO-u osiguran kao osoba u radnom odnosu kod domaće pravne osobe, te da je u Poreznoj upravi evidentiran kao obveznik plaćanja poreza po osnovi dohotka od imovine, uz vođenje poslovnih knjiga. Iz narečenog je razvidno da je korisnik odobrenja u trenutku puštanja robe u postupak bio osoba s prebivalištem i uobičajenim mjestom boravka u Republici Hrvatskoj.

ried out as the statute of limitations had expired, so only tax levies were being calculated.

The cases are of interest to practice not only because of the court judgement regarding the invalidity of the craft registration document, but also because the collection of taxes and interests, calculated by the customs office during the procedure according to tax rules on the statute of limitations pursuant to the Article 90 of the General Tax Law, proved to be well-founded. However, the customs debt was not calculated as the three-year period of limitation for the notification of the debtor on the customs debt provided for in the Article 225(4) of the Customs Code expired.

Furthermore, there are some opinions that the above provision on the notification period concerning customs debt to be applied on the total debt and not on customs debt only, which means that the debt incurred based on VAT Law and Excise Tax Act calculated by Customs Administration would also be included.

### 4.3. Croatian craft owners

in some cases it was found out that the craft owners were Croatian nationals who had a habitual residence in the Republic of Croatia. The state of facts was established or checked with the Croatian Pension Insurance Institute (the parties were most usually employed in the Republic of Croatia), with the Ministry of the Interior in order to establish the registered residence, and with Tax Administration for tax collection.

The Administrative Court of the Republic of Croatia gave reasons for the judgement rejecting the complaint considered unfounded, in which complaint the complainant quoted that his habitual residence was abroad (more than 183 days) pursuant to Article 37 (1) of General Tax Act. However, the case files show that the Customs verified *ex officio* the compliance with the terms of Article 5 of the Annex C of the Convention on the Temporary Importation (OJ 16/98) for the craft the complainant had temporarily imported on full customs- and tax-free basis.

The verification with the authorities showed the complainant's registered residence was in the Republic of Croatia, and that he was insured with the Croatian Pension Insurance Institute as an employed person with a domestic legal person, and that he was registered as a taxpayer for the tax on the return of capital, with the record keeping. The above clearly shows that the beneficiary of the permit was a person who had a habitual residence in the Republic of Croatia at the moment when the permit for the craft was obtained.



#### 4.4. Vlasnici plovila s dvojnim državljanstvom

Isto tako, u nekim predmetima utvrđeno je da su vlasnici plovila osobe koje imaju dvojno državljanstvo, činjenica da vlasnik plovila ima hrvatsko državljanstvo i državljanstvo neke druge države, te prebivalište u RH-a, a boravište u nekoj drugoj državi, ne može se smatrati ispunjenjem uvjeta za iskorištenje povlastice. Po dolasku u RH-a žalitelj se ne može deklarirati kao stranac, uz predocjenje stranih dokumenata te uživati pogodnosti stranca u državi čiji je državljanin. Sukladno čl. 37. st. 3. OPZ-a, ukoliko porezni obveznik ima prebivalište u tuzemstvu i inozemstvu, smatra ga se tuzemnim poreznim obveznikom.

U obrazloženju presude Upravnog suda RH-a, kojom se tužbu odbija kao neosnovanu, govori činjenica da je tužitelj državljanin SR Njemačke i da tamo plaća porez, ne utječe na spomenuti postupak, iz razloga što tužitelj mora podmiriti porez na prihode ostvarene u Republici Hrvatskoj, poput svakog drugog hrvatskog državljanina. Obveza mu je također, kao državljanina RH-a, da pri uvozu stranog plovila plati dugovanje. Sukladno čl. 2. Zakona o hrvatskom državljanstvu (NN 53/91. do 113/93.), državljanin RH-a koji ima i strano državljanstvo smatra se pred tijelima hrvatske države vlasti isključivo hrvatskim državljaninom, sa svim pripadajućim pravima i obvezama.

Dolaskom u Hrvatsku tužitelj se ne može deklarirati kao stranac, uz predocjenje stranih dokumenata te uživati pogodnosti stranca u državi čiji je državljanin. Dakle, u konkretnom slučaju proizlazi da tužitelj nema pravo na privremeni uvoz plovila, s obzirom da se radi o domaćoj osobi koja živi i ima stalno prebivalište u RH-a, jer nisu kumulativno ispunjeni uvjeti za privremeni uvoz iz čl. 5. Aneksa C Konvencije o privremenom uvozu.

Isto tako, u nekim slučajevima domicilne osobe upravljale su stranim plovilima, te su se kod nadležnih tijela lučke kapetanije prijavljivale kao osobe osposobljene upravljati plovilom u svojstvu profesionalnih kapetana skipera. U obrazloženju takvih presuda Upravnog suda RH-a kojom takve tužbe odbija kao neosnovane, iz priloženih je dokaza bilo razvidno da je plovilo u vlasništvu strane pravne osobe, dok je tužitelj u svojstvu skipera sa stalnim prebivalištem u Hrvatskoj ovlašten slobodno raspolagati jahtom. S obzirom na ovlasti tužitelja, na osno-

#### 4.4. Craft owners with dual citizenship

it was also proved in some cases that the craft owners were the persons with dual citizenship. The fact that a craft owner is at the same time a Croatian citizen and a citizen of some other country, with a permanent residence in the Republic of Croatia and a temporary residence in some other country, does not mean that the conditions for the use of the privilege have been met. Upon arrival at the Republic of Croatia the complainant cannot declare himself as a foreigner by presenting foreign documents and enjoy privileges of a foreigner in the country which he is the citizen of. Pursuant to Article 37(3) of the General Tax Act, if a taxpayer has a residence inland and abroad, he is considered a domestic taxpayer.

The Administrative Court of the Republic of Croatia gives reasons for the judgement by which the complaint was rejected as being unfounded: although the complainant is the citizen of the Federal Republic of Germany where he actually pays taxes, this fact does not effect the case as the complainant should also pay revenue tax for revenues realized in the Republic of Croatia as any other Croatian citizen. As a Croatian citizen he also has an obligation to pay debts when he imports a foreign craft. Pursuant to Article 2 of the Croatian Citizenship Act (OJ 53/91 to 113/93) a Croatian citizen with a foreign citizenship is regarded only as a Croatian citizen with all relevant rights and liabilities in front of the Croatian state authorities.

Upon arrival to Croatia the complainant cannot declare himself as a foreigner by presenting foreign documents and enjoy the privileges of a foreigner in the country which citizen he actually is. Consequently, in this particular case the complainant has no right to temporary import the craft since a national, who lives and has a permanent residence in the Republic of Croatia, is in question and the conditions regulating the temporary importation pursuant to Article 5 of the Annex C to the Convention on the Temporary Importation have not be cumulatively fulfilled.

Likewise, in some cases domiciled persons sailed foreign crafts and used to register themselves with competent harbourmaster's offices as the persons capable of sailing the craft as professional captains-skipper. The reasons of the judgements of the Administrative Court of the Republic of Croatia in such cases, by which such complaints were always rejected as unfounded, stated that the evidence clearly showed that the craft was owned by a foreign legal person, while the complainant, in the capacity of a skipper with

vi punomoći strane tvrtke i njegovog iskaza o radnjama što ih je poduzimao u domaćem carinskom području u vezi s istom jahtom, utvrđeno je da tužitelj za vlasnika stranih jahti nije obavljao samo usluge skipera, već je raspolagao plovilom.

Budući da je prema Konvenciji, isključeno slobodno raspolaganje stranim plovilom na osnovi ustupanja drugome na uporabu ili u vlasništvo, a nije dopuštena ni uporaba ili raspolaganje takvim plovilom stranoj osobi u domaćemu carinskom području, kada trajno boravi, odnosno ima uobičajeno boravište u RH-a, tužitelj je pravilno utvrđen carinskim dužnikom.

#### **4.5. Vlasnici tvrtki hrvatski državljani u inozemstvu**

Mnogobrojni su bili slučajevi u kojima su hrvatski državljani u inozemstvu vlasnici tvrtke ili korisnici plovila po ovlaštenju strane tvrtke te je prema ispravama vlasnik plovila strana tvrtka, a predstavnik vlasnika plovila bio je hrvatski državljanin korisnik plovila u Hrvatskoj. Sukladno čl. 16. st. 4. OPZ-a, propisano je ukoliko imovinom upravlja druga osoba, da će se smatrati poreznim obveznikom za porezne obveze koje proistječu iz imovine kojom upravlja.

U obrazloženju presude Upravnog suda RH-a, kojom se tužbu odbija kao neosnovanu, tužitelj ističe kako nije točno da je bio porezni obveznik u ovome postupku u trenutku puštanja robe (plovila) u postupak, s obzirom da je vlasnik plovila društvo Vaco Ltd. Delaware, USA. Napomenuo je da je on bio samo zastupnik vlasnika plovila.

Slijedom utvrđenog činjeničnog stanja, proizlazi da je tužitelj carinski dužnik, odnosno osoba odgovorna za plaćanje duga na ime javnih davanja u ovome predmetu, jer ne ispunjava uvjete za privremeni uvoz. Tuženo tijelo pravilno je ocijenilo poreznog obveznika u ovome slučaju, navodeći da je tužitelj kao predstavnik vlasnika i korisnik plovila u Hrvatskoj osoba odgovorna za plaćanje duga na ime javnih davanja.

## **5. KAKO SPRIJEČITI MOGUĆE ZLOUPORABE**

Važeći pomorski propisi takvi su da carinskim inspektorima koji provode nadzor plovila

permanent residence in Croatia, had been authorized to freely use the yacht. Considering the complainant's authorization based on the letter of authorization issued by the foreign company, and his statement on the activities he had taken within the domestic customs territory regarding the same yacht, it was found out that the complainant had not only worked as a skipper for the owner of the foreign yacht but that he had also had the craft at his full disposal.

As the Convention does not provide for full disposal of a foreign craft based on the ceding of use or ownership to third party, and as the use or disposal of such a craft by a foreign person in the national customs territory is not allowed when such person has a permanent or temporary residence in the Republic of Croatia, the complainant was justifiably found a customs debtor.

#### **4.5. Croatian citizens as company owners abroad**

there were quite a number of cases when Croatian citizens abroad were company owners or craft users under the authorization issued by a foreign company. Consequently, according to the documents, the craft owner was a foreign company while the Croatian citizen as the representative of the owner was the craft user in Croatia. As provided for in Article 16(4) of General Tax Act if third person manages the property, that person shall, as a taxpayer, be held responsible for the settlement of tax levies pertaining to the property he manages.

The reasons of the judgement of the Administrative Court of the Republic of Croatia, by which the complaint has been rejected as unfounded, contains the statement of the complainant in which he quotes that he was not a taxpayer in this case at the moment when the permit for the craft was obtained since the craft owner is the company Vaco Ltd. Delaware, USA. He states that he was only the craft owner representative.

Following the fact finding it can be concluded that the complainant is a customs debtor, i.e. the person responsible for the settlement of the debt incurred by way of public levy in this case, since he does not meet the temporary import conditions. The defending party has justifiably assessed the taxpayer in this case, declaring that the complainant, as the representative of the owner and craft user in Croatia, is also the person responsible for the settlement of the debt incurred by way of public levy.

na moru, omogućuju prepoznavanje većine brodica namijenjenih obavljanju određene registrirane gospodarske djelatnosti, ali nažalost ne omogućuju prepoznavanje jahta (dakle u pravilu, skupljih plovila). Isto će značajno utjecati na učinkovitost i rezultate takvih inspekcijskih nadzora sukladno novim poreznim propisima, ako se ne usklade, odnosno izmijene i dopune određeni pomorski propisi.

Važno je istaknuti da se ne može nijedno plovilo, pa ni jahtu ni brodicu, tek tako upisati na tvrtku ili obrt i ne platiti poseban porez (trošarinu), a PDV-e prikazati kao pretporez. Kad netko upiše jahtu ili brodicu na tvrtku ili obrt, preuzima i određene obveze što ih u svakoj carinsko-poreznoj kontroli mora i dokazati, a to su u prvom redu, dvije:

- da s istom jahtom ili brodicom obavlja određenu gospodarsku djelatnost za koju je tvrtka registrirana,
- da istu jahtu ili brodicu ne može rabiti za osobne potrebe, odnosno sport i razonodu, jer Zakon propisuje da se trošarinu plaća na plovilo, brod ili brodicu (jahtu) i čamac unutarnje plovidbe kad služi razonodi, sportu ili rekreaciji.

### 5.1. Plovila za gospodarske namjene

Glede carinskog i poreznog davanja, kada su u pitanju plovila, obračun carine i poreza temelji se na namjeni, utvrđenoj ovisno o konstrukciji plovila, ali i o kategoriji poreznog obveznika. Ponekad se može raditi o različitim namjenama istih plovila jednake konstrukcijske izvedbe. Tako se npr. vrlo često plovila, konstrukcijski namijenjena za sport i razonodu, rabe u gospodarske svrhe za iznajmljivanje plovila, tzv. čarter.

U trenutku puštanja plovila u slobodan promet carinski i porezni obveznik namjenu dokazuje prilaganjem isprave o registraciji carinskoj deklaraciji. Carinarnica, naime utvrđuje smatra li se uvezeno plovilo opremom za obavljanje registrirane djelatnosti te sukladno donesenoj odluci, odobrava ili osporava pravo uvoza. Takav dokaz carinsko tijelo koje obavlja postupak uvoznog carinjenja plovila uzima kao činjenicu. No, nakon puštanja plovila u slobodan promet, tako prihvaćena činjenica koja je bila pravnom osnovom za primjenu instituta neplaćanja carine i/ili posebnog poreza, podložna je provjeri.

## 5. HOW TO PREVENT POSSIBLE ABUSE

The existing maritime regulations enable customs inspectors, who carry out the supervision of sea crafts, to identify the majority of crafts intended for certain registered business, but unfortunately they do not enable the identification of yachts (more expensive crafts as a rule). This will considerably affect the efficiency and results of these inspections according to new tax regulations unless certain maritime regulations are harmonized or amended.

It is important to point out that no craft, and so neither yacht nor boat, can, just like that, be registered in the name of a company or crafts to avoid the payment of a special duty (excise tax) and to state VAT as a pre-paid tax. When a person registers a yacht or a boat in the name of a company or crafts, she/he also assumes certain obligations that she/he should demonstrate during any customs-tax control: two are the most important:

- that the same yacht or boat is engaged for the specific business activity for which the company has been registered,
- that the same yacht or boat cannot be engaged for personal needs, i.e. sport or pleasure, as the Act provides that the excise tax is paid for the craft, ship or yacht and boat in inland navigation when it is used for pleasure, sport or recreation.

### 5.1. Crafts for economic purposes

As regards customs and tax duties, customs and tax for crafts are calculated based on the purpose determined against the craft construction, as well as on the taxpayer category. Sometimes the same crafts, of the same construction, may be used for different purposes. E.g. the crafts intended for sport and pleasure by its constructions are very frequently used for economic purposes – for craft renting, so-called charter.

When a craft is put into service, the customs and taxpayer provides the evidence on the craft purpose by attaching the registration document to the customs declaration. Namely, the Customs Office specifies whether the imported craft is considered as the equipment engaged in a registered activity, and based on the decision made it grants or denies import rights. The customs authority, which carries out craft import customs clearance, considers this evidence as a fact. However, after the permit for free navigation was obtained, the fact so accepted as a legal basis for the applica-



Ukoliko se naknadno u inspeksijskom nadzoru utvrdi da se plovila na koje carina i/ili poseban porez nisu plaćeni, uporabljuje u druge svrhe, zahtijeva se obračun carine i/ili posebnog poreza te razliku PDV-a, čiju visinu nadležna carinarnica utvrđuje rješenjem.

U trenutku podnošenja carinske deklaracije, radi odobrenja postupka puštanja robe u slobodan promet, porezna osnovica posebnog poreza na plovila ne ovisi više kao dosad o dužini plovila u metrima, nego o vrijednosti plovila.

## 5.2. Određivanje oznake i imena brodice i jahte

Sukladno čl. 183. Pomorskog zakonika (NN 181/04., 76/07. i 146/08.) propisano je da brodica upisana u očevidnik brodica mora imati oznaku, a može imati i ime, dok čl. 206. istog zakonika propisuje da brod ili jahta upisana u hrvatski upisnik brodova ili jahti, osim tehničkog plovnog objekta te broda ili jahte kojem je izdan privremeni upisni list, mora imati ime. Rješenja o određivanju imena i oznaka brodova i jahti donosi nadležno Ministarstvo.

Vrlo je važno da carinski službenici, sukladno Pravilniku o brodicama i jahtama, razlikuju oznake plovila namijenjenih za gospodarsku djelatnost od oznaka plovila namijenjenih za sport i razonodu, odnosno za osobne potrebe vlasnika. Isto je potrebno pri obavljanju inspeksijskog nadzora nad plovilima puštenim u slobodan promet, uz primjenu nulte stope carine i neplaćanje posebnog poreza, radi uporabe u posebne svrhe, a sve u cilju da se onemoguće različite zlouporabe, kakve su u velikom broju evidentirane u dosadašnjoj praksi pomorskih carinarnica.

## 5.3. Kako na moru prepoznati jahte za gospodarske namjene

Odgovor na spomenuto pitanje, sukladno sadašnjim pomorskim propisima, nažalost je negativan, jer nasuprot brodicama, jahte (plovila duža od 12 m) nemaju oznaku nego samo ime, pa je iz tog razloga vrlo teško prilikom kontrole na moru prepoznati jahte registrirane za obavljanje gospodarske djelatnosti od registriranih za sport i razonodu.

Svaku se brodicu, samo na zahtjev vlasnika umjesto u očevidnik brodica, može upisati u upisnik jahta te tako dobiti samo ime, a ne i oznaku, jer se tada na takvu brodicu, u pogledu

tion of the legal provision on the non-payment of customs and/or special tax is subject to subsequent verification. If upon the subsequent inspection supervision it is found that the crafts, for which the customs and/or special tax have not been paid, are engaged in other purposes, the calculation of customs and/or special tax, as well as the VAT difference, is requested and the amount is defined in the notice issued by a competent customs authority.

At the moment when the customs declaration is presented in order to get the permit for free navigation, the tax basis for the craft special tax does not depend on the craft length in metres as it was the case in previous practice, but on the value of the craft.

## 5.2. Names and marks of boats and yachts

pursuant to Article 183 of the Maritime Code (OJ 181/04, OJ 76/07 and OJ 146/08) it is provided that the boat registered in the boat record book must have a distinctive mark, and may, in addition to the mark, also bear a name, while Article 206 of the same Code provides that the boat or yacht registered in the Croatian boat or yacht register, except a technical waterborne craft and except the boat or yacht which has been issued a temporary certificate of registration, must bear a name. Rulings relative to names and marks of boats and yachts are issued by the competent Ministry.

It is of the utmost importance that customs officers can, based on the Regulations relating to boats and yachts, differentiate the marks of the crafts intended for business activity from the marks of the crafts intended for sport and pleasure and owner's personal needs. This is of the importance at the inspection supervision of the crafts with a permit for free navigation under zero duty and the non-payment of special taxes to be used for special purposes, in order to prevent various abuses that have been recorded so far in the practice of maritime customs offices.

## 5.3. How to identify yachts for economic operations at sea?

According to the existing maritime rules, the answer to the above question is negative as contrary to boats, the yachts (crafts exceeding 12m in length) do not bear any mark but only the name and, consequently, it is very difficult to differentiate the yachts registered for economic operations from those registered for sports and pleasure.

stvarnih prava, primjenjuju odredbe koje se odnose na brodove i jahte.

Glede spomenutog, na našem moru tako će ploviti i određeni broj plovila koja se prema definiciji smatraju brodicama, ali neće imati propisanu oznaku za brodice, jer su na zahtjev vlasnika ista upisana u upisnik brodova ili jahta, te su tako dobila samo ime, ali ne i oznaku.

Najvažnije je znati kako oznaku brodice čine dva slova koja označuju ime luke upisa i redni broj pod kojim je brodica upisana u očevidnik brodice te da se na brodicama za osobne potrebe tu oznaku ispisuje tako da se najprije ispiše slovnu oznaku luke upisa u kojoj je brodica upisana, a nakon toga redni broj iz očevidnika brodice, dok se na brodicama za gospodarske namjene oznaku ispisuje tako da se najprije ispiše redni broj iz očevidnika, a nakon toga slovnu oznaku imena luke upisa.

## 6. DRŽAVNA TIJELA U OTKRIVANJU "CRNOG ČARTERA"

Glede suradnje tijela državne uprave u otkrivanju "crnog čartera", osim tijela poreznih vlasti, evidenciju o plovilima te obavljanje inspekcijuskog nadzora u pravnih ili fizičkih osoba koje se bave čarter djelatnostima, vode sljedeća tijela državne uprave:

- Ministarstvo unutarnjih poslova, Ministarstvo financija – Carinska uprava,
- Ministarstvo mora, turizma, prometa i razvitka – lučke kapetanije i turistička inspekcija,
- turističke inspekcije županija,
- turističke zajednice.

MUP RH-a, odnosno policijske postaje vode evidencije o kretanju i boravku stranaca što ih dostavljaju marine ili pravne i fizičke osobe koje se bave čarter djelatnošću te provode inspekcijски nadzor i pokreću prekršajne postupke protiv pravnih i fizičkih osoba kod kojih su stranci boravili bez prijavljena boravka, sukladno Zakonu o kretanju i boravku stranaca (čl. 61).

Carinska uprava, odnosno ispostave carinarnica, obavljaju carinski postupak pri uvozu plovila. Na osnovi podataka o najmu plovila, carinarnice obavljaju i inspekcijски nadzor u svezi postojanja osnovane sumnje u nevjerodostojnost dostavljenih podataka.

Upon the owner's request, each boat can be registered in the yacht record book instead in the boat record book and thus get only the name, and not the mark, as in this case only the provisions referring to boats and yachts apply to such a boat as regards its actual rights.

In view of the above a number of crafts that are considered boats according to the definition will sail our sea but will not have prescribed boat marks since they have been registered, on owner's request, with the ship or yacht register so that they got only the name and not the mark.

The most important is that the boat mark consists of two letters identifying the port of registry and a number under which the boat has been registered in the boat record book. In case of boats for personal needs, this mark consists of the letter designation of the port of registry wherein the boat has been registered followed by the number from the boat record book, while the boats for economic activities bear the mark consisting of the number from the boat record book followed by the letter designation of the port of registry.

## 6. STATE ADMINISTRATION BODIES ENGAGED IN BLACK CHARTER IDENTIFICATION

As regards the co-operation between the state administration bodies, in addition to tax authorities engaged in the "black charter" identification, the following state administration bodies keep records on crafts and carry out inspection supervision with legal or physical persons engaged in charter business:

- Ministry of the Interior ; Ministry of Finance – Customs Administration;
- Ministry of Sea, Tourism, Transport and Development – harbourmaster's offices and tourism inspection;
- County tourism inspections;
- Tourism organisations.

The Ministry of the Interior of the Republic of Croatia, that is the police stations, keep records on the entry and stay of foreigners submitted by marinas or legal and physical persons engaged in charter business, and carry out inspection supervision and initiate misdemeanour trials against legal and physical persons with whom foreigners stayed although they had not been registered pursuant to Article 6 of the Act on Movement and Stay of Aliens.

Prigodom puštanja plovila u slobodan promet, obračunava se carina, poseban porez i PDV-e. Važno je istaknuti, da fizička osoba s uobičajenim boravištem u Hrvatskoj, što podrazumijeva boravak najmanje 185 dana u kalendarskoj godini, neovisno o državljanstvu, ne može bez provedbe uvoznog carinjenja i plaćanja ostalih uvoznih davanja (poseban porez i PDV-e) rabiti plovilo u našem carinskom području, odnosno ne pod stranom zastavom kao strani turist.

Lučke kapetanije ovjeravaju popise članova posade i putnika (*crew-liste*) pri svakoj smjeni gostiju. Na osnovi tih lista može se utvrditi razdoblje uporabe plovila po danima te broju osoba na plovilu.

Turističke inspekcije, obavljaju inspekcijski nadzor provođenja Zakona o ugostiteljskoj djelatnosti, te se iz zapisnika o inspekcijskim nadzorima može steći spoznaje o provođenju poreznog inspekcijskog nadzora.

Turističke zajednice vode evidencije o svim pravnim i fizičkim osobama koje prijavljuju osobe iznajmljivača plovila, na boravak kojih se plaća boravišnu pristojbu u iznosu od 400 kuna paušalno po plovilu. Samo u jednoj marini uz uporabu veza jednom godišnje i tri do pet kuna po osobi kada plovilo ulazi u marinu, za što se izdaje račun.

## ZAKLJUČAK

Nautički turizam je najstabilniji, najvitalniji i potencijalno najprofitabilniji hrvatski turistički proizvod. Ipak nije još "doplovio" do razine kvalitete koju mu jamči bogatstvo resursa. Broj čarter tvrtki u posljednje dvije godine u RH-a je porastao pet puta, danas postoji oko 800 kompanija koje se bave čarterom i iznajmljuju više od 3.000 plovila. Prema dostupnim saznanjima, nemali broj tih agencija iako hrvatskih, imaju svoje bankovne račune otvorene u inozemstvu na koje im se uplaćuje novac za unajmljivanje plovila.

Naravno da se veći dio tih prihoda kasnije ne prijavljuje poreznim tijelima u Hrvatskoj. Najam tako luksuznih plovila na tjedan stoji od 25.000 eura do 50.000 eura, a ponekad i znatno više, pa nije teško izračunati prihode tijekom triju ljetnih mjeseci.

Prema dostupnim podacima dosadašnja eskalacija "crnog čartera" je prema procjenama

Customs Administration, i.e. customs offices, conducts customs procedures at the craft importation. Based on the data on craft renting, customs offices carry out inspection supervision when there is well founded suspicion that the data submitted are not authentic.

When a permit for free navigation is granted to a craft, customs duty, special tax and VAT are calculated. It should be pointed out that a physical person with a temporary residence in Croatia, which means the residence of at least 185 days in a calendar year regardless of her/his nationality, cannot use the craft in our customs territory if it is not import customs cleared and if other import duties (special tax and VAT) are not paid; i.e. not under a foreign flag as a foreign tourist.

The Harbourmaster's offices certify the signatures of the crew members and passengers (*crew-list*) at each exchange of guests. According to these lists the period of craft use per days, and the number of persons on the craft can be found out.

Tourism inspections carry out inspection supervision of the implementation of the Catering Law regulations, and the records on inspection supervision may show details on the effected tax inspection supervision.

Tourism organisations keep records on all legal physical persons that are registered for stay by craft charterers, for which stay the KN 400 lump-sum tourist tax per craft is paid, and that only in one marina with one berth a year and three to five kunas per person when a craft enters the marina, all covered with adequately issued invoices.

## CONCLUSION

Nautical tourism is the most stable, most vital and potentially the most profitable Croatian tourism product. Nevertheless, it has not "sailed" to the level of quality yet that is granted to it by rich resources. The number of charter companies in the Republic of Croatia has grown five times in the last two years, and today there are 800 companies engaged in charter business that rent more than 3000 crafts. According to the available information not insignificant number of these agencies, although they are Croatian ones, possess accounts opened abroad to which the payment for the craft renting is made.

Of course, the majority of the income is not subsequently declared to tax authorities in Croatia. The rent of such luxury crafts ranges from EUR 25,000 to EUR 50,000 a week, sometimes even considerably more, so it is not difficult to calculate the income during three summer months...



samo s osnove PDV-a godišnje iz Hrvatske iznosio oko 30-ak milijuna eura. Procjene govore kako je godišnje oko 150 milijuna eura bilo u opticaju u "crnom čarteru". Temeljem naređenog, na isto nije plaćen porez na dobit, porez na tvrtku, porez na dohodak, kao i ostala predviđena davanja, a nije bilo ni zapošljavanja.

Donošenjem Pomorskog zakonika koji je stupio na snagu u proljeće 2005. godine donekle je uveden red kod čartera i to na način da je zabranjena mogućnost plovilima pod stranom zastavom obavljanja djelatnosti u R. Hrvatskoj. No to je ipak moguće ukoliko je plovilo pod hrvatskom zastavom, a tvrtka mora biti registrirana u našoj zemlji.

Kad je prije nekoliko godina hrvatska uvela obaveznu vinjetu za strane brodove namijenjene za sport i razonodu, značajno je smanjen "crni čarter" na našem moru.

Usklađivanje ukupnoga hrvatskog zakonodavstva sa zakonima i standardima EU-a nije samo naša obveza u već pokrenutima pristupnim pregovorima, nego i nužnost, kako bi se izbjegla različita tumačenja određenih propisa i različita postupanja carinskih, poreznih i pomorskih tijela u odnosu prema "crnom čarteru". Točan odgovor o tome koliko su hrvatski zakoni usklađeni sa zahtjevima EU-a i gdje je nužno dodatno usklađivanje dat će *screening process*.

According to the information available past escalation in "black charter" amounted to approximately 30 million euros for non-paid VAT only. Some assessments indicate that about 150 million euros a year circulated in "black charter". As a result, profit tax, company capitalization tax, income tax and other expected duties were not paid thereon, and additionally no employment occurred.

Since the Maritime Code came into effect in spring 2005, the order in charter business has been brought to a certain extent in a way that the crafts under foreign flags are prohibited to engage in activities in the Republic of Croatia. However, it is nevertheless possible if the craft flies the Croatian flag and the company is registered in our country.

Since a few years ago when Croatia introduced compulsory vignettes for foreign crafts for sport and pleasure, "black charter" in our sea has been considerably decreased.

The approximation of Croatian legislation with the EU laws and standards is not only required by the accession negotiations opened with EU, but it is also essential in order to avoid different interpretations of certain regulations and different procedures taken by customs, tax and maritime authorities against black charter. Only the screening process will provide an exact answer to what extent the Croatian laws have been harmonized with the EU requests and where additional harmonization is necessary.

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