

2nd ADRIATIC MARITIME LAW CONFERENCE



European Maritime Day 2017

OPATIJA,
25-27 May 2017





ADRIATIC MARITIME LAW CONFERENCE

OPATIJA, 25-27 May 2017

To the Members of the National Maritime Law Associations of Italy, Slovenia and Croatia

25 May 2017

Dear friends and colleagues,

First of all, let us say that we are proud and happy that our three associations (Italian, Slovenian and Croatian) are continuing the tradition started last year in Portorož and are organizing the 2nd Adriatic Maritime Law Conference, which is taking place in Opatija, Croatia from May 25 to May 27 of this year. You will find all the details of the Conference programme, the speakers and their presentations in this brochure.

We are glad that the 2nd AMLC will be providing us with a possibility to hear interesting presentations from speakers coming from various Adriatic coastal states (Italy, Slovenia, Albania and Croatia), to discuss recent trends of maritime law, and to have an update with regards to the main topics of the 1st AMLC (the regulation of seaports and legal framework for offshore activities). Besides that, this event would also give us an opportunity to explore a new common area and compare the legal regime of nautical tourism in the Adriatic coastal states, to share opinions regarding unification of maritime law, which is also our main task as member associations of the Comité Maritime International, and to develop activities of young members of our associations. The main topics of the Conference will encompass various legal aspects of nautical tourism because of its significance for the economy of the coastal states of the Adriatic and of other regions of Europe. That is why the EU supports nautical tourism trying to make it more accessible in various coastal countries, which need harmonisation of the rules and practices for its regulation. This is also the reason why the 2nd AMLC is co-organised by the Croatian Academy of Sciences and Arts (Adriatic Institute) within the installation research project no. 11-2013- 3061 titled "Developing a Modern Legal and Insurance Regime for Croatian Marinas - Enhancing Competitiveness, Safety, Security and Marine Environmental Standards (DELICROMAR)", which is financed by the Croatian Science Foundation. We are also glad to announce that the Adriatic Maritime Law Conference has been included by the European Commission in the official list of events on the occasion of the European Maritime Day 2017 (EMD 2017 event across EU).

In hope to continue excellent experiences from Portorož we want to welcome you all to Opatija!

Yours faithfully,

President of AIDIM
Avv. Giorgio Berlingieri

President of DPSS
Ms. Margita Selan-Voglar

President of HDPP
Dr. Petar Kragić

AMLC ORGANIZERS

Prof. Avv. Giorgio Berlingieri is the President of the Italian Maritime Law Association, the Vice President of the CMI, Senior Partner at Studio Legale Berlingieri Maresca, Advocate to the Italian Supreme Court of Cassation, Titulary Member of the CMI, Vice President for Italy of IIDM, Vice Editor of *Il Diritto Marittimo*, Member Contributory Board of *Droit Maritime Français*, Member of the Advisory Board of *Lex Trasporti*. After graduating at the University of Genoa - Faculty of Law with a thesis “Safe ports and safe berths in time charters and voyage charters”, he continued maritime law studies at the London University College, New York University, Tulane University, Berkeley University and UCLA. He completed his training with leading law firms in London, New York, New Orleans, Los Angeles and San Francisco. Giorgio Berlingieri started practicing law with Studio Legale Berlingieri in Genoa, where he became a senior partner, covering a variety of maritime law fields such as: casualty related work including collision, salvage, wreck removal, limitation of liability, pollution and other environmental and admiralty related issues, charter party and bill of lading disputes and all types of marine litigation and commercial disputes, arrest of ships, foreclosure, enforced sale of ships and ship’s registration.

Dr. Mitja Grbec is the Vice-President of the Maritime Law Association of Slovenia and visiting lecturer at the IMO International Maritime Law Institute in Malta. He graduated law at the University of Ljubljana Faculty of Law and completed his LL.M. and Ph.D. studies in international maritime law at the IMO International Maritime Law Institute (IMO IMLI) in Malta. He has held several positions both in the academia and private sector, including that of a permanent lecturer at the IMO International Maritime Law Institute (IMO IMLI) in Malta and that of a member of the Supervisory Board of the company Slovenian Railways d.o.o. (2011-2015). Among other he is the author of the book ‘Extension of Coastal State Jurisdiction in Enclosed or Semi-enclosed seas: A Mediterranean and Adriatic Perspective’, published by Routledge (London, New York) in 2014 and reprinted in paperback version in 2015.

Dr. Petar Kragić is the President of the Croatian Maritime Law Association and a Titulary Member of the CMI. He is heading the Legal & Insurance Department of Tankerska Shipping Company. After graduating law summa cum laude at the University of Split, Petar Kragić joined Tankerska plovidba in 1976. He obtained his LL.M. and Ph.D. degrees in maritime law from the University of Split, Faculty of Law. He is a regular speaker at maritime conferences, the author of legal textbook “Tanker Charter Parties“ and a number of articles on maritime law. Petar Kragić is a member of the drafting committee for Croatian Maritime Code. He was a member of the CMI drafting committee for the Rotterdam Rules and a member of the Croatian delegation to UNCITRAL Conferences. He is a former chairman of the Legal Committee of the Croatian Chamber of Shipping. For a number of years he was a director of the UK P&I Club, SiGCo. and of international investment fund.

Dr. Igor Vio is the Secretary General of the Croatian Maritime Law Association and a Titulary Member of the CMI. He is teaching courses in Maritime Law, Law of the Sea, and Transport Insurance at the University of Rijeka Faculty of Maritime Studies. As a visiting lecturer he has delivered courses at the IMO IMLI in Malta, IMO IMA in Trieste, and International Ocean Institute at Dalhousie University in Halifax, Canada. His legal education includes law degree at the University of Rijeka, Faculty of Law, LL.M. in Ocean and Coastal Law at the University of Miami School of Law, LL.M. in the Law of the Sea and Ph.D. degree in Maritime Law at the University of Split, Faculty of Law. As a UN fellow he spent one year in the US and worked in the UN Office of Legal Affairs in New York City. He has published papers covering various fields of the international law of the sea and maritime law. He was the editor of the volume “Maritime Code of the Republic of Croatia and Recent Developments in the Area of Maritime and Transportation Law”. As an invited speaker he participated with presentations at various national and international conferences.

PROGRAMME

Thursday, 25 May 2017 (Hotel Palace Bellevue, Opatija)

14:00 - 14:30 Registration

14:30 - 15:00 Welcome Reception

15:00 - 15:30 Opening Ceremony - speeches: Avv. Giorgio Berlingieri,
Ms. Margita Voglar and Dr. Petar Kragić

15:30 - 17:00 **Introductory Session: Current Maritime Law Issues**
(chairman: Dr. Mitja Grbec)

Avv. Giorgio Berlingieri: Current Maritime Law Issues - CMI between New York and Genoa (*key-note speech*)

Prof. Dr. Patrick Vlačić: Are We Prepared for Potential Oil Spill in the Nord Adriatic: Capodistria - Ship Grounding? (*key-note speech*)

Prof. Dr. Dragan Bolanča – Prof. Dr. Petra Amižić Jelovčić: Croatian Coast Guard as a Safety Instrument of the Adriatic Sea in Times of Maritime Terrorism and Migration Crisis (*key-note speech*)

Discussion

17:00 - 17:30 Coffee break

17:30 - 19:30 **Recent Developments of Maritime and Transport Law and 1st AMLC Update: Offshore Activities and Legal Regime of Seaports**
(chairman: Avv. Giorgio Berlingieri)

Prof. Avv. Lorenzo Schiano di Pepe: From Global to Regional and Sub-Regional Approaches in Dealing with Liability from Offshore Installations

Dr. Mitja Grbec: Liability and Compensation with regard to Offshore Activities in the Adriatic - Slovenian Perspective

Prof. Dr. Axel Luttenberger – Mr. Loris Rak, LL.B.: Croatian Legislation on Ports – Dilemmas and Prospectives

Dr. Jan Albers: Demands of the Practice and Contractual Solutions with regard to Terminal Contracts between Port Operators and Large-Scale Shippers

Avv. Alberto Pasino: The Reform of the Italian Yachting Code

Dr. Massimiliano Musi: The Nomenclature and Legal Classification of Pleasure Craft and other Vessels

Discussion and Concluding Remarks

20:00 Dinner at the Hotel Palace Bellevue

Friday, 26 May 2017 (Hotel Palace Bellevue, Opatija)

9:00 - 11:00 **Legal Aspects of Nautical Tourism in the Adriatic**

(chairman: Prof.Dr. Lorenzo Schiano di Pepe)

Dr. Petar Kragić: Free Market Competition in Nautical Tourism

Ms. Martina Vidmar, LL.B.: Legal Framework of Nautical Tourism in the Republic of Slovenia

Mr. Zoran Tasić, LL.B.: Project Financing on Maritime Domain in Nautical Tourism Industry

Dr. Arber Gjeta: Legal Regulation of Nautical Tourism in the Republic of Albania

Dr. Iva Tuhtan Grgić – Dr. Božena Bulum: The Regime of Concessions for the Nautical Tourism Ports in Croatia – Practical Problems and Harmonisation with the EU Law

Mr. Zdravko Kačić, LL.B.; Mr. Tihomir Duplić, LL.B.: Financing of Pleasure Craft and other Vessels Used in Nautical Tourism Industry

Discussion

11:00 - 11:30 Coffee break

11:30 - 13:30 **Marinas and Other Ports Used for Nautical Tourism**

(chairman: Dr. Petar Kragić)

Avv. Enrico Vergani: The Legal Status of Marinas and Other Nautical Tourism Ports in Italy

Dr. Mišo Mudrić: The Legal Framework Relating to Security in the Ports of Nautical Tourism

Dr. Boris Jerman: Legal Regime of Marinas and Other Nautical Tourism Ports in Slovenia

Prof. Dr. Ranka Petrinović – Prof. Dr. Branka Milošević Pujo – Dr. Nikola Mandić: Safety of Navigation Standards in the Ports of Nautical Tourism with a Special Focus on the Maintenance of the Port Order

Discussion

13:30 - 15:00 Lunch at the Hotel Palace Bellevue

15:00 - 16:00 **Maritime Law Associations Meeting**

16:00 - 18:00 **Legal Framework for Port Operators in Nautical Tourism**

(chairman: Dr. Boris Jerman)

Ms. Margita Selan Voglar, LL.B.: Liability of Marina Operator and its Insurance

Avv. Federico Franchina: Marina Operator's Professional Liability - Italian Legal Framework

Dr. Vesna Skorupan Wolff – Dr. Adriana Vincenca Padovan: The Effect of the Craft's Sinking on the Contractual Relationship of the Parties to the Contract of Berth and Custody of the Pleasure Craft

Avv. Angelo Meriardi: Enforcement and Settlement of Port Operator's Claims in Italy

Dr. Marija Pijaca: Legal Relationship between Marina Operator and Charter Agency Arising from the Contract of Berth - Comparative Analysis

Discussion

18:00 - 18:20 Coffee break

18:20 - 20:00 **Pleasure Craft and other Vessels Used for Nautical Tourism**
(chairman: Dr. Igor Vio)

Avv. Lorenzo Fabro – Avv. Filippo Cassola: The Contracts of Construction of Yachts and Pleasure Craft: an Italian Perspective on the Most Relevant Legal Issues

Mr. Zdravko Kačić, LL.B.: Financing of Pleasure Craft and other Vessels Used in Nautical Tourism Industry

Avv. Elena Orrù: Contracts used for the Charter or Hire of Pleasure Craft and Other Vessels in Pleasure Navigation: an Italian Perspective

Prof. Dr. Dorotea Ćorić: The Legal Regime of Marine Pollution Prevention from Vessels in Nautical Tourism

Avv. Giovanni Marchiava: Legal Status of Crew Members on Pleasure Craft and other Vessels Used in Nautical Tourism

Discussion and Concluding Remarks

20:00 Closing Ceremony: Avv. Giorgio Berlingieri, Ms. Margita Selan Voglar and Dr. Petar Kragić

20:30 Dinner at the Restaurant Ružmarin in Opatija

Saturday, 27 May 2017

9:30 - 16:00 Visit to the Port of Rijeka followed by trip to Kastav

SPEAKERS AND ABSTRACTS

Prof. Avv. Giorgio Berlingieri
AIDIM President /
Studio Legale Berlingieri Maresca
Genoa

Member (from 2009) of the Executive Council of Comité Maritime International and (from 2012) its Senior Vice President. President (from 2005) of the Italian Maritime Law Association. Vice President for Italy (from 2014) of the Instituto Ibero Americano de Derecho Marítimo. Honorary Member (from 2015) of the Croatian Maritime Law Association. Advocate to the Supreme Court of Cassation. Partner of Berlingieri Maresca Studio Legale Associato, Genoa, a law firm listed by Chambers Europe 2017 in Band 1 for Shipping and Band 2 for Shipping Finance. Head of the relating department reported “*to hone in on what counts and give solid advice so you know where you stand*” and quoted to “*advises on a range of shipping law matters, with particular focus on salvage, collision and arrest of ship cases*”. Deputy Editor of *Il Diritto Marittimo*, Member of the Contributory Board of *Droit Maritime Français*. For his articles, presentations, lectures: www.berlingierimaresca.it

CMI BETWEEN NEW YORK AND GENOA

The speech is to summarize the activities of the CMI after the New York Conference and will also deal with the CMI in general and with next plans and events. At a Seminar which will take place at Genoa in September 2017 on the occasion of the CMI Assembly 2017, traditional CMI topics such as Cross-border Insolvency, Offshore Activities and Ship Financing will be reviewed. Refugee Migration at Sea, a dramatic and very sensitive issue, will also be a theme of the Seminar. Concurrently with the CMI Assembly, the Young CMI and the Young Italian MLA are to organize a Seminar on the Ballast Water Convention. This is a new theme, however it is worth of being considered in view of its technical and legal implications and to mark the entry into force of the Convention the day (8 September 2017) when the Young CMI Seminar takes place. Other CMI topical matters, not in the Agenda at Genoa but which continue to be considered and studied, are those on liability for wrongful arrest, with efforts to achieve better uniformity than that offered by the 1999 Arrest Convention, and those relating to attempts at unification on issues regarding recognition of foreign judicial sales of ships, with the official approval of the CMI instrument at a Diplomatic Conference to be convened by an International Governmental Organization. The compilation of selected principles of the *Lax Maritima*, namely of internationally accepted rules of maritime law, is the scope of another work of the CMI, whilst a project has been eventually realized, by an ad hoc CMI Standing Committee, to establish a database of decisions by national Courts on the interpretation of maritime conventions. There is then an IWG quite active on the issue of Unmanned Ships and a Questionnaire has been recently circulated. Polar Shipping and its particular regime, including Polar Load Lines, Pollution Liability in Polar Regions and COLREGS in the polar environment is another work in progress. The Constitution Committee is constantly at work to refine the text of the CMI Constitution whilst EXCO in its meetings and EXCO Members in their day by day work are attending to financial and administrative issues, to CMI membership and to planning future meetings and activities, whilst the CMI Editor is looking after the CMI Publications and website.

Doc. Dr. Patrick Vlačič
University of Ljubljana
Faculty of Maritime Studies and Transport in Portorož

Patrick Vlačič graduated at the Faculty of Law in Ljubljana, completed LL.M. studies of Maritime Law and Law of the Sea at the Faculty of Law in Split, Croatia, and obtained the PhD degree at the Faculty of Law in Ljubljana. He was trainee at the Court of Appeal in Koper from 1995 to 1997, passing the bar exam in 1998. He has worked at the Faculty of Maritime Studies and Transport since 1997. He was the Director of Portorož Airport between 2002 and 2004, and Minister of Transport of Republic of Slovenia from 2008 to 2012. He is the author of the book “Limiting Liability in Transport Law”, co-author and editor of the books “Maritime Law I and II”, and co-author of the textbooks “Transport Law” and “Introduction to Freight Forwarding”.

ARE WE PREPARED FOR POTENTIAL OIL SPILL IN NORD ADRIATIC? (CAPODISTRIA SHIP GROUNDING)

On March 26 at 1.00 AM a bunkering tanker Capodistria, IMO 8034239, Gross Tonnage: 476, Draught: 2.3 m, ran aground near Koper (Capodistria) in Slovenia. She was carrying about 200 metric tonnes of bunker fuel. About fifty people with seven vessels were monitoring the tanker around the clock to prevent eventual oil spill. We can only be grateful to whatever prevented a seabed from ripping through the ship’s hull. Vessel allegedly made an unusual manoeuvre and the authorities contacted the master. He initially denied that the vessel is in distress. It was soon established that the vessel ran aground in shallow sea just near the Debeli Rtič, i.e. the last cape before the Port of Koper where it was headed from direction of port of Trieste. Master overlooked a lighthouse and caused the tanker to run aground in an area where the seabed is a combination of silt and rocks. Port of Koper’s maritime protection team was introduced to the scene. The team put spill blockers around the ship to prevent an oil spill.” At 8.00 AM, the master was able to carry out a manoeuvre to save the ship because of the high tide. The vessel was directed to Port of Koper. Inspection of the vessel that sails from Trieste to Koper three times a week discovered several irregularities: among others, the fire protection pump and a magnetic compass were inoperative; the navigation maps of the Bay of Koper were not up-to-date. This accident has shown that even though all the authorities were immediately on the scene and seemed to carry out their job properly a bitter sense of potential danger and reality check reached the public. Are we prepared to deal with an oil spill in Gulf of Trieste?

Prof. Dr. Dragan Bolanča
HDPP Vice-President /
University of Split
Faculty of Law

Dragan Bolanča is Full Professor of Maritime and Transport Law, at the Faculty of Law, University of Split. He graduated from the University of Split Faculty of Law in 1980, and then completed a two-year post-graduate course in the Maritime Law and Law of the Sea and received a Master's degree in 1987 (the title of his master's thesis was "Incidents of Navigation and the Shipowner's Liability in Maritime Transactions"). He was awarded PhD degree in 1994 and his doctoral thesis is entitled "The Institute of Excepted Perils and the Shipowner's Liability in the Carriage of Goods". Before he became a teaching assistant at the Split Faculty Law (1991) he had worked first as a lawyer and later as a judge (1982 - 1991). He passed the bar examination in 1984. He served as Vice-Dean at the Faculty (2000 – 2002), Headmaster at the Postgraduate course in the Maritime Law and Law of the Sea (2000 – 2004, 2008 - 2012), Dean at the Faculty (2004 - 2006), Vice – Rector for juridical and personnel issues of University of Split (2006 – 2010, 2010 - 2014). He is the Vice-President of the Croatian Maritime Law Association. Besides publishing many scientific papers, Dragan Bolanča is the author of several books: "The Institute of Excepted Perils and The Shipowner's Liability in the Carriage of Goods", "Maritime Law - Selected Themes", "The Legal Status of Sea Ports as Maritime Demesne in the Republic of Croatia", "Croatian Administrative Law of Navigation" and "Traffic Law of Republic of Croatia".

Prof. Dr. Petra Amižić Jelovčić
University of Split
Faculty of Law

Petra Amižić Jelovčić is Associate Professor of Maritime and Transport Law, at the Faculty of Law, University of Split. She was born in 1979. She graduated from the University of Split Faculty of Law in 2002, and then completed post-graduate course in the Maritime Law and Law of the Sea and received a Master's degree in 2005 (*Collision of Ships*). She was awarded PhD degree in 2007 and her doctoral thesis is entitled *Maritime Carriage of Nuclear Material*. Petra Amižić Jelovčić has been working at the Faculty Law in Split since 2005, first as research assistant from 2005 till 2009 when she became an assistant professor. From 2012 she works as an associate professor and is a vice-head of Department of Maritime and Transport Law. She is an author of many scientific journal papers and of two scientific books; *Maritime Carriage of Nuclear Material with a Special Reference to Liability for Nuclear Material* (2010) and *Croatian Coast Guard – Legal framework* (2017). She is the head of Croatian Maritime Law Association – branch office Split.

CROATIAN COAST GUARD AS A SAFETY AND SECURITY INSTRUMENT OF THE ADRIATIC SEA IN TIMES OF MARITIME TERRORISM AND MIGRATION CRISIS

Maritime terrorism is a form of contemporary terrorism and it presents enormous danger to human life, to the safety of navigation and to the marine environment. This article considers briefly relevant International and European documents regulating this issue. All of these documents have been introduced more than a decade ago, but still they represent suitable legal basis to meet modern challenges to the security at sea. Authors point out their most important solutions but also the problem which rises from the fact that maritime terrorism does not have a unanimous definition. Under the scope of this paper, special reference is given to the role of Croatian Coast Guard in times of maritime terrorism and migration crisis. Croatian Coast Guard was established by The Coast Guard Law in 2007. This Law regulates the structure, organization, domain of work, authority, tasks and assignments of the Coast Guard - the new maritime administrative service which contributes to the protection of sovereignty, sovereign rights and jurisdiction of the Republic of Croatia at sea, navigation safety and marine environment protection, suppression and prevention criminal offences according to international law and Croatian regulations. Especially interesting is its position under recently founded European Border and Coast Guard whose main task is to ensure the effective management of migration flows and provide a high level of security for the EU at the external borders.

Prof. Avv. Lorenzo Schiano di Pepe
University of Genoa
Department of Law

Lorenzo Schiano di Pepe is Full Professor of European Union Law at the University of Genoa, Department of Law, currently teaching courses in “EU Law” and “International and European Law of the Sea”, and Co-ordinator of the Jean Monnet module on “European Union and the Law of the Sea”. He is also a partner and practicing lawyer at Studio Legale Afferni Crispo & C. in Genoa. He obtained degrees in law from various universities: Laurea (University of Genoa, 1997); LL.M. in international business law (University of London, 1999); LL.M. in international legal studies (Georgetown University Law Centre, 2000); Dott. Ric. (University of Milan, 2004). He is an author or co-author of several monographs, book chapters, essays, articles, encyclopaedic entries and case notes. He is a member of scientific board of the following publications: “Il diritto marittimo”, “Polish Yearbook of Environmental Law”, “European Papers”, “Przegląd Prawa Pchorny Srodowiska”; editorial board of “Diritto del commercio internazionale”. He also serves in the World Commission on Environmental Law, International Union for the Conservation of Nature, and was appointed as a member of the International working group on “offshore activities” established by the Comité Maritime International (CMI). Lorenzo Schiano di Pepe is a member of many scientific societies including Società Italiana di Diritto Internazionale (SIDI), Associazione Italiana Giuristi Europei (AIGE), European Society of International Law (ESIL) (member of the interest group on the law of the sea), and Associazione Italiana di Diritto Marittimo (AIDIM).

FROM GLOBAL TO REGIONAL AND SUB-REGIONAL APPROACHES IN DEALING WITH LIABILITY FROM OFFSHORE INSTALLATIONS

The presentation will introduce some of the most recent developments in the area of offshore installations and liability arising therefrom, including in particular the document entitled “*Guidance for bilateral/regional arrangements or agreements on liability and compensation issues connected with transboundary oil pollution damage resulting from offshore exploration and exploitation activities*” that Denmark and Indonesia submitted to the Legal Committee of the International Maritime Organization earlier this year (LEG/104/14/2 of 21 February 2017). Several aspects of the document (including the suggested scope of application of a bilateral/regional arrangement or agreement and some of the solutions envisaged therein in terms of its possible content) will be critically analysed with a view to assessing its overall contribution to the development of an appropriate legal regime addressing liability and compensation for damage resulting from offshore exploration and exploitation activities, having due regard to the legal loopholes that still exist at the international, European and national levels. The (peculiar) “guidance” approach taken by Denmark and Indonesia will be contrasted with the possible alternatives that may theoretically be resorted to by concerned States with regard to both the geographical scope of a possible liability instrument (global as opposed to regional or, indeed, sub-regional, bilateral or domestic) as well as to its binding or non-binding nature. Liability from offshore activities remain one of the most crucial open questions in the maritime arena, as highlighted by the ongoing activities of the CMI’s International Working Group on Offshore Activities, chaired by Jorge Radovich, to which the presenter belongs.

Dr. Mitja Grbec
Maritime Law Association of Slovenia

Mitja Grbec is the Vice-President of the Maritime Law Association of Slovenia and visiting lecturer at the IMO International Maritime Law Institute in Malta. He graduated law at the University of Ljubljana Faculty of Law and completed his LL.M. and Ph.D. studies in international maritime law at the IMO International Maritime Law Institute (IMO IMLI) in Malta. He has held several positions both in the academia and private sector, including that of a permanent lecturer at the IMO International Maritime Law Institute (IMO IMLI) in Malta and that of a member of the Supervisory Board of the company Slovenian Railways d.o.o. (2011-2015). Among other he is the author of the book 'Extension of Coastal State Jurisdiction in Enclosed or Semi-enclosed seas: A Mediterranean and Adriatic Perspective', published by Routledge (London, New York) in 2014 and reprinted in paperback version in 2015.

**LIABILITY AND COMPENSATION WITH REGARD TO OFFSHORE
ACTIVITIES IN THE ADRIATIC: SLOVENIAN PERSPECTIVE**

The aim of this presentation is to expand the discussion on the International Legal Framework for Regulation on Offshore Activities in the Adriatic Sea with a specific emphasize on liability and compensation and on the actual and/or potential role of the Republic of Slovenia and other Adriatic States in that regard. It goes without saying that even an incident of much lower proportions than the one experienced in the Gulf of Mexico some years ago would have a devastating effect on the Adriatic marine environment and its coastal zones, and would most likely affect the territories and/or zones of jurisdiction of more than one coastal State. This article will accordingly try to suggest some legislative actions which the Republic of Slovenia and other Adriatic States should perform and forms of cooperation which could undertake to further protect the vulnerable Adriatic and Mediterranean marine environment and/or potential victims of off-shore marine pollution. Reference will be also made to the desirability for all Adriatic States to ratify the 'Offshore Protocol' to the Barcelona Convention and to the important role of EU legislation addressing liability and compensation for (marine) pollution damage in the Adriatic Sea.

Prof. Dr. Axel Luttenberger
University of Rijeka
Faculty of Maritime Studies

Axel Luttenberger is a full professor with permanent tenure and the head of Social Sciences Department at the Faculty of Maritime Studies of the University of Rijeka. He got his Bachelor's Law degree at the University of Rijeka, Faculty of Law, and became Master of Law and Doctor of Law at the University of Split, Faculty of Law. After passing bar examination he had long lasting practice in marine insurance business as legal attorney and legal advisor. He had experience in local government and government public service having been the City Mayor of Opatija and Member of Croatian Parliament. He has published four books and over ninety academic papers. His main activities are teaching maritime, commercial and ecology law at various university and vocational programmes. He is a member of a number of organisations, including Croatian Maritime Law Association. He is involved in projects for maritime industry, government entities and non-governmental environmental associations.

Loris Rak, LL.B
University of Rijeka
Faculty of Maritime Studies

Loris Rak graduated at the University of Rijeka, Faculty of Law in 2004, where he started his postgraduate studies of Maritime and Transport Law in 2014. He worked as court councillor (recorder) at the Commercial Court in Rijeka from 2004 until 2009, entrusted with activities and responsibilities in judiciary within commercial and admiralty division. Since 2009 he has been working as teaching assistant at the University of Rijeka, Faculty of Maritime Studies. He is vice chairman of the Expert Committee for granting concessions on maritime domain and chairman of Managing Board of Krk County Port Authority. He is also appointed a member of the Expert Committee on maritime domain and seaports of the Croatian County Association. Since 2015 he has been Treasurer of the Croatian Maritime Law Association.

CROATIAN LEGISLATION ON PORTS – DILEMMAS AND PROSPECTIVES

In the Republic of Croatia the existing port management system is extremely vulnerable due to predatory investors practice and the insufficient material and human resource capacity of state administration bodies and local self-government units. Likewise, potential dangers of corruption are relatively high. Croatian maritime domain is a common good governed by public authority that has to care for it, maintain it and is responsible for it. Therefore, the starting point in analysing port legislation is the fact that, according to the Croatian Constitution, the seaport is considered to be assets of interest to the Republic of Croatia enjoying its special protection, because of their impact on all people including future generations. Currently, Croatian legislation on seaports adopted identical port structure for all ports regardless of classification in respect of their importance for the Republic of Croatia. This model should be reconsidered and improved in respect of diverse classification of ports to comply better with multiple and different demands of various port service users, taking into account the interests of port cities and local community. The

legal framework of seaports is best achieved by keeping maritime ports away from legal dealings where it is impossible to exercise the right of ownership or other real estate rights on any ground. Consequently, the authors advocate a more appropriate use of a maritime domain in ports based on a concession, rather than on property rights or surrogates of such rights thereon.

Dr. Jan Albers
Segelken & Suchopar Law Firm
Hamburg

Born in 1981 in Hamburg, Germany, Jan Albers studied law from 2001 to 2008 at the University of Hamburg. Afterwards he completed the LL.M. studies in Environmental Law in 2008, the First State Examination with specialization in the Corporate and Business Law in 2008, and doctoral studies at the Law of the Sea and Maritime Law Institute, University of Hamburg, with thesis "*Responsibility and Liability in the Context of Transboundary Movements of Hazardous Wastes by Sea – the 1999 Liability Protocol to the Basel Convention*" from 2008 to 2013. He contributed in Co-Management of IFLOS Summer Academy 2009 and 2010 at the International Tribunal for the Law of the Sea, and was a Doctoral Scholar at the International Max Planck Research School for Maritime Affairs in 2009-2010. Jan Albers started his legal career as Legal Assistant with Segelken & Suchopar Law Firm in 2008 – 2014, performing his Legal Clerkship from 2011 to 2013, and after completing the Second State Examination and Conferment of Dr. iur. in 2014, he was admitted to the Bar and has been Associate with Segelken & Suchopar law Firm in Hamburg since 2014, specializing in Maritime and Transport Law, Commercial Law and Insurance Law.

DEMANDS OF THE PRACTICE AND CONTRACTUAL SOLUTIONS REGARDING TERMINAL CONTRACTS BETWEEN PORT OPERATORS AND LARGE-SCALE SHIPPERS

This presentation will focus on the particular demands of practice regarding the transshipment of large volumes of goods by single shippers and the contractual solutions that might be used to address the specific legal aspects arising in such situations. At first, the basic conditions of large volume contracts will be outlined. Subsequently, some of the specific demands and requirements of shippers will be explained, such as the necessary capacity, the accessibility of the terminal, the scope of services, and technological requirements. The legal aspects that are chosen for further consideration include the choice of law and the applicable legal boundaries, the logistical reconciliation, which concerns the coordination of the provisions in Charter Parties and Port Operator Contracts, Liability and Damage Assessment Rules and other issues like customs clearance, dangerous goods, container VGM and bulk cargo requirements.

Avv. Alberto Pasino
Zunarelli – Studio Legale Associato
Trieste

Alberto Pasino graduated from the University of Bologna - Faculty of Law in 1992 with a thesis on “The liability of the sea carrier in container transport”, published in 1994. After two years training with Prof. Enzo Volli he joined Zunarelli – Studio Legale Associato in 1995, becoming Resident Partner of the Firm’s Trieste Office in 1996. He is currently Senior Partner and member of the Managing Board of the Firm. His main areas of practice are maritime and transport law, commercial law, civil law, litigation and arbitration. He has vast experience in litigation and arbitration with regard to terminal operator liability, multimodal, sea and land transport, international freight forwarding, yachting and building contracts. Alberto is an active member of several associations (AIDIM; Propeller Club - Port of Trieste, which he chaired for eight years) and, since 2015, of the Steering Committee of Il Diritto Marittimo. He holds seminars at university and master degree courses on transport law, maritime law and international commercial law, and has published several articles on those subjects. He has been a member of the committee appointed by the Italian Ministry of Infrastructures and Transport for the drafting of the Italian Yachting Code (D.Lgs. 18.7.2005, n. 171).

THE REFORM OF THE ITALIAN YACHTING CODE

The purpose of the presentation is to address the legislative reform of the recreational boating legislation currently pending in Italy (Law 167/2015, which has delegated the power to reform the Yachting Code to the Italian Government) with a specific focus on the relationship between the Yachting Code and the Navigation Code. The issue will be addressed through an analysis of the history of the relationship between the rules governing recreational boating and the general navigation legislation in Italy. Starting with an analysis of the first few rules of the navigation code devoted to recreational boating, which had been regulated together with the forms of operation of the ship for economic purposes, the discussion will then review the contents of Law 50/1971 (s.c. “*piccolo codice della nautica da diporto*”), which led to a first division between recreational boating and general navigation legislation. Law 172/2003 – a piece of legislation which was intended to reorganize and boost recreational boating and nautical tourism – will also be mentioned, given the legislator’s attempt to make the rules governing recreational boating fully autonomous from the general navigation legislation. Law 171/2005 (s.c. “*codice della nautica da diporto*”) will then be briefly reviewed, with particular emphasis on the legislator’s choice to recognize that recreational boating rules have a special nature in relation to general navigation legislation, but are not fully autonomous from it. The presentation will finally focus on the choice made by the legislator through Law 167/2015 – a statute which delegates the Government to reform the Yachting Code – which confirms the approach chosen by the “*codice della nautica da diporto*”, and on the consequences of such choice on legal institutions such as the shipowner’s limitation of liability.

Prof. Dr. Massimiliano Musi
University of Bologna /
Studio Legale Zunarelli
Bologna

Massimiliano Musi is Adjunct Professor in Air Law at the University of Bologna. In 2015 and 2016 he was awarded two Research Fellowship on the matter respectively of cargo insurance and logistics. He has been named expert both in Transportation Law and in Maritime Law at the University of Bologna since 2008, and in September 2012 he was awarded the Ph.D. in European Transport Law. He is also Lecturer at many higher education courses, Master's and Ph.D. courses and he held some lessons at the European Parliament for the Directorate for Legislative Acts. He has been invited to participate as a speaker in many international Conferences (*inter alia*, Seoul, London, Bruxelles, Istanbul, Rotterdam, Leuven, Zagreb, Portorož, Elbasan, Mali Lošinj) and over the years he has organized Summer Schools, Conferences and International Research Seminars. Massimiliano is a member of the Bologna Bar Association since 2011. Since 2015 he is Member of the *Associazione Italiana di Diritto Marittimo* (AIDIM) and in November 2015 he was appointed as member of the Committee for the Ship Nomenclature, inside the *Comité Maritime International* (CMI). Since 2014 he is General Secretary of the Editorial Committee of the Review "*Il Diritto Marittimo*" and since 2016 of the book series "*Il Diritto Marittimo - Quaderni*". Since 2015 he is Secretary of the International Propeller Clubs - Port of Bologna. Massimiliano wrote three monographies, many articles and case comments and edited four collective volumes.

THE NOMENCLATURE AND LEGAL CLASSIFICATION OF PLEASURE CRAFT

The need to regulate the phenomenon of nautical tourism, strongly felt at least in the Mediterranean area, has led the Italian legislator to provide a special framework for pleasure crafts different from the general discipline of the Italian Navigation Code. The provisions contained in the Italian Recreational Navigation Code (the so called "*Codice della Nautica da Diporto*") offer a legal classification of craft destined to pleasure navigation (distinguishing, depending on the length, between "*unità da diporto*", "*nave da diporto*", "*imbarcazione da diporto*", "*natante da diporto*"), thereby specifying the scope of the definition of "ship" laid down in Article 136 of the Italian Navigation Code. The latter, indeed, in its first paragraph, after including any construction destined to carriage on water, also for towage or fishing purposes, refers to craft intended for recreational or other purposes as well. Moreover, the adoption of EU directives, aimed at harmonizing the laws, regulations and administrative provisions of the Member States and the characteristics of pleasure craft, has extended the definition of "watercraft" to new categories and purposes, such as the jet skis. Therefore, the regulatory framework, already repeatedly revised, is still evolving. The presentation will focus on the analysis of the current Italian and European regulatory framework, on the existing *discrimen* between common vessels and pleasure craft and on the identification of the consequences related to this distinction, with particular regard to the relevant requirements and limits laid down for the category of pleasure craft.

Dr. Petar Kragić
HDPP President /
Tankerska plovdba d.d.
Zadar, Croatia

Petar Kragić is the President of the Croatian Maritime Law Association and Titulary Member of the CMI. He is heading the Legal & Insurance Department of shipping company Tankerska Plovdba d.d... After graduating law summa cum laude at the University of Split, Petar Kragić joined Tankerska plovdba in 1976. He obtained LLM and PhD degrees in maritime law from the University of Split, Faculty of Law. He is a regular speaker at maritime conferences, the author of legal textbook “Tanker Charter Parties“ and a number of articles on maritime law. Petar Kragić is a member of the drafting committee for Croatian Maritime Code. He was a member of the CMI drafting committee for the Rotterdam Rules and a member of the Croatian delegation to UNCITRAL Conferences. He is a former chairman of the Legal Committee of the Croatian Chamber of Shipping. For a number of years he was a director of the UK P&I Club, SiGCo. and of an international investment fund.

FREE MARKET COMPETITION IN NAUTICAL TOURISM

The presentation suggests that the recent legal regime in Croatia covering various aspects of the nautical tourism should be reviewed and amended in order to make it friendlier for the tourists and commercial chartering industry alike and therefore more competitive on the international market. In the past the freedom of the sea was restricted within territorial waters of the coastal states which, inter alia, reserved cabotage for its own citizens. Cabotage was defined as carriage of passengers and goods between the ports within the coastal state. However, nautical tourism has emerged as a lucrative commercial activity and coastal states have been inclined to include it within the cabotage protection. However, EU laws on common market make nautical tourism in waters of individual coastal states accessible to EU citizens (as pleasure activity) and EU businesses (as commercial activity). On the other hand, EU general regulations impose somewhat stiff legal framework creating obstacles to adopting optimised solutions for issues related to nautical tourism. Whether a country is truly maritime, does not depend on the mileage of its coastal line, but rather on understanding by its government of the unique features peculiar to the maritime activities ensuing from their genuine international nature, which require special regulations, different from those of the general laws. The same marker goes for EU, which has demonstrated deep understanding of international shipping by passing special laws for EU shipowners and seafarers. Now, the same approach would be welcome for nautical tourism.

Dr. Arber Gjeta
University of Elbasan
Faculty of Economy
Department of Law

Arber Gjeta is a full time lecturer at the University of Elbasan “Aleksander Xhuvani” since December 2012. He successfully defended his PhD thesis in June 2013 at the University of Bologna (Airport and Airportual Services Regulation in the European and National Legislation). He graduated Law at the University of Bologna. The main focus of his research is air law and airport legislation. He is a lawyer and a member of the Albanian National Bar since 2013.

LEGAL REGULATION OF NAUTICAL TOURISM IN THE REPUBLIC OF ALBANIA

Albania has an expanded coastal line which presents many possibilities for nautical tourism. Actually, there is very developed sea tourism and several attempts are made to enhance and develop the nautical tourism as its important branch. This paper aims to analyse the legal regulation of the sector. Actually, the maritime legislation in Albania lays on Maritime Code, adopted in 2004, and in several secondary acts and specific laws that regulate in detail several issues like safety, security and maritime infrastructure. In particular, nautical tourism is regulated by the Law no. 9710 of 2007 “On Touristic Ports in the Republic of Albania” and by the Regulation no. 1227 of 2008 “On Criteria and Procedures for Exercising Activity in the Field of Sea Tourism”. Unfortunately, there are still only few nautical ports in Albania despite the intention of the actual Government for developing the sector. The limited legal framework has contributed to the slow development of this sector in comparison with the other countries of the region despite the favourable climate created regarding tax legislation, facilities in promoting concession and a renewed legislation on maritime security in Albania. Thus, a legislative reform of the regulation of the sector would be necessary for future development.

Zoran Tasić, LL. B.
Dedicato Consulting /
Split Shipbuilding Industry

Zoran Tasić is consultant to the Management Board of Shipbuilding Industry Split, in Split, Croatia. After graduating at the Law Faculty in Split his career started at the Split shipyard where he was involved in export shipbuilding contracts and shipbuilding finance for eight years. In late 1980s Zoran had joined Shipping Department of Stephenson Harwood, a City of London firm of solicitors where he worked on shipping finance and shipbuilding disputes for fifteen years. Zoran Tasić joined Ince & Co, another City of London firm of solicitors in 2002 where he worked on shipping related matters for two years. Upon return to Croatia he joined Raiffeisenbank Austria d.d. in Zagreb as a Deputy Head of Legal Department. He formed Banking & Finance team at Zagreb branch of Anglo-Austrian law firm CMS Reich-Rohrwig Hainz in 2006, where he spent 10 years being involved in many projects in Croatia financed by international banks. Zoran Tasić is a listed Arbitrator in domestic and international disputes at the Croatian Chamber of Commerce. He has spoken at many conferences and written articles on the international finance and shipbuilding matters.

FINANCING PROJECTS ON MARITIME DOMAIN

Croatian law defines concession generally as a right acquired pursuant to a concession contract subject to terms set out in the decision on concession (granted by a relevant authority) (the Concessions Act) and, in respect of maritime domain, more specifically, as a right (of the Government authority) to exclude a part of maritime domain from the public use (ex commerce), either partly or completely, and to grant it to individuals or corporations for their commercial use subject to the relevant area planning. Buildings and other units erected on a maritime domain form its integral part. The law makes it clear that no property rights can be created on any part of maritime domain including buildings and units erected thereon. Projects developed on maritime domain often include large infrastructure projects, development of ports and marinas which require substantial financings. They are normally financed through project finance scheme which requires high level of capital and involves a substantial number of participants such as banks, contractors, investors, project managers, service suppliers, public sector, etc. Project finance scheme depends entirely on income generated by the project itself which income is the only source of repayment of financing and on “the availability of reliable security instruments on the assets and cash flow of the concessionaire in favour of lenders, including “step-in” rights and the possibility of government financial support or the guarantee by the contracting authority of proper fulfilment of its obligations.” That is why the project contracts, including concession contract in the first place, are of paramount importance for the banks. Normally, the security instruments on the concessionaire’s assets do not include a mortgage. Croatian law does not allow for creation of a mortgage on maritime domain. That, however, is not an obstacle for the banks to provide financing for projects developed on maritime domain. From project finance banks’ point of view it is not necessary to change the law in order to allow creation of mortgage on maritime domain. Other security instruments created in favour of the banks providing project finance, including direct agreements, are normally sufficient for the banks to control the project.

Doc. Dr. Iva Tuhtan Grgić
University of Rijeka
Faculty of Law

Iva Tuhtan Grgić is Assistant Professor of Maritime and Transportation Law at University of Rijeka Faculty of Law, where she worked as a research assistant at the Department of Civil Law. She defended a doctoral dissertation in 2014 and got her Ph.D. degree from the University of Zagreb, Faculty of Law. During the doctoral studies she spent a research period at the Max Planck Institute for Comparative and International Law in Hamburg, Germany, as their scholar. She has worked on several scientific projects and is currently involved as a collaborator on a scientific project Developing a Modern Legal and Insurance Regime for Croatian Marinas. She has published several scientific papers in the field of civil and maritime law, developing a special interest in research of legal regime of maritime domain, and participated with presentations at various national and international conferences.

Dr. Božena Bulum
Croatian Academy of Sciences and Arts
Adriatic Institute in Zagreb

Božena Bulum was born in 1978. She graduated law at the Split Faculty of Law. In 2003 she passed bar examination at Ministry of Justice. She gained her LL.M. in 2005 and Ph.D. in 2008 at the Split Faculty of Law. She works as a senior research associate at the Adriatic Institute of the Croatian Academy of Sciences and Arts. She is author of the book “Maritime Transport Services and Port Services in Competition Law of the European Community”, and co-author of the book “European Transport Law”. Furthermore, she has published around 25 scientific and professional papers. Her field of scientific interest covers maritime law, and European transport law. She is a member of the Editorial Board of the scientific periodical publication Comparative Maritime Law. She was a member of the Expert Commission which drafted Croatian Maritime Code. She is also a member of the Croatian Maritime Law Association.

THE REGIME OF CONCESSIONS FOR THE NAUTICAL TOURISM PORTS IN CROATIA – PRACTICAL PROBLEMS AND HARMONISATION WITH THE EU LAW

Nautical tourism ports are part of maritime domain and as such are *res extra commercium*. Consequently, they may be used and economically exploited for rendering nautical and touristic services only on the basis of granted concession. Since regarding the concession granting procedure for nautical tourism ports the appropriate, subsidiary, application of general provisions on concessions on maritime domain is prescribed, the review of the applicable provisions will be provided, noting, where necessary, the discrepancies with the posterior Concessions Act. Problems perceived in practice will be pointed out, especially in relation to registration of maritime domain into land register as a statutory requirement for concession granting, since it might block the new concession granting

procedures and obstruct functioning of the existing ports of nautical tourism. Another significant deficiency is arising from the lack of the mechanisms for valuation of the legitimate investments and increase in value of the maritime domain after the expiry of concession, deterring investors from continuous placement of capital in modernisation of nautical tourism ports. Possible solutions could be found in granting priority concession to former concessionaire, prescribing privileged position in new concession granting, or in prescribing obligation to refund former concessionaire for the increased value of maritime domain. The authors will examine the compatibility of possible solutions with the requirements set by the EU law. The Court of Justice of the European Union in Joined Cases C-458/14 and C-67/15 confirmed that Article 12 (12/1 and 2) of the Directive 2006/123/EC on services in the internal market shall be interpreted as precluding a national provision, which allows automatic extension of existing concessions of State-owned maritime and lakeside property for tourist and leisure oriented business activities, without any selection procedure for potential candidates. Therefore, special attention will be devoted to the question of applicability of the Directive to the nautical tourism ports, since port activities are excluded from its scope (Art. 2/2/d of Directive 2006/123/EC), whilst, on the other hand, services provided in nautical tourism ports, by their nature prevalingly tourism and leisure-oriented, should fall within its scope. Finally, the question whether the application of Directive 2006/123/EC to nautical tourism ports fulfils one of its major aims – achievement of economic and social progress, will be raised.

Avv. Enrico Vergani
Studio Legale Garbarino Vergani
Genoa

Enrico Vergani started his legal career with Ferrarini Ferraro Law Firm and gained considerable experience with high profile litigation and transactions from the very beginning of his working days. He had the opportunity of training/internships with top London shipping firms (1991 and 1993). He was admitted to the Italian Bar in 1993 with the highest marks in his session and awarded the Princivalle Prize by the Law Society for the District of the Court of Appeal in Genoa. Enrico has been a partner of the firm Garbarino Vergani since its foundation. He acts as an Arbitrator in domestic and international disputes including ICC Arbitration. Besides Arbitration, his interest encompasses all the aspects of shipping including ship finance deals, litigation with particular attention to all international and multi jurisdictional issues. With a deep knowledge of economics he has also attended a number of seminars and round tables and gave papers on various subjects. He is a member of Propeller Club, Port of Genoa and Port of Naples, member of the board of the Italian Maritime Law Association (AIDIM) and member of scientific committee of Lex Transporti. Since 2016 he is a member of working group on ports and infrastructures with Regione Liguria, the local Government, advising in particular on developments and opportunity following the recent changes in European and Italian regulatory framework. Enrico is also a regular contributor to different law publications.

THE LEGAL STATUS OF MARINAS AND OTHER NAUTICAL TOURISM PORTS IN ITALY

The presentation is intended to offer an overview on the economical impact of marinas and nautical ports within the context of the business of tourism and leisure in Italy, identifying the various activities carried out in the spaces of a marina and tourism port and their coordination within the area of the port and coordinating with the overall planning of the areas. Settling the state of Italian legislation on marinas, nautical ports and the various activities carried out, following also the recent reform of Italian law on port infrastructures. Applicable laws and regulations to marinas, nautical ports and activities carried out therein with particular attention to the issue of concessions also in the light of recent decision of Italian Constitutional Court on the criteria to be applied in concessions rentals and the positive reactions from the industry for its positive impact on a market affected by the deep economic crisis which calls for medium and long term investment planning. The role of local governments is essential in supporting the activities and the development of nautical tourism as a fundamental resource for our communities. It should lead this industry from survival to new developments and growth: a look outside Italy and the prospects of applying Special Economic Zone regime to Italian marinas and nautical ports - a dream which may come true.

Mišo Mudrić is Assistant Professor at the Department for Maritime and Transport Law, at the Faculty of Law in Zagreb, where he holds lectures in Maritime and Transport law, Insurance Law, Energy Law, and Private Security Services Law. He has been participating in a number of domestic and international scientific projects, conducts regular peer-review, and is an author of one monograph and numerous scientific and expert articles in his fields of research. Mišo Mudrić serves as an arbitrator at the Permanent Arbitration Court at the Croatian Chamber of Economy. In addition, he is the Secretary General and Management Board member of the Croatian Association for Insurance Law, and a member of the Croatian Maritime Law Association. He has obtained his PhD degree at the Faculty of Law, University of Hamburg, and had conducted his doctoral research at the Max Planck Institute for International and Comparative Law in Hamburg, Germany. Last year he was appointed a member of the Comité Maritime International Working Group on the Reformulation of the Lex Maritima. In addition, he is Chair of the Sub-Group on Drones, Working Group on Liability Insurance, of the Croatian Association for Insurance Law.

THE LEGAL FRAMEWORK RELATING TO SECURITY IN THE PORTS OF NAUTICAL TOURISM

The subject of presentation is an introductory examination of the issue of security protection in ports of nautical tourism. The first part of presentation provides a general contour of relevant international, European and Croatian legislation. The emphasis is placed on the following statutes and legal acts: SOLAS Convention – XI-2 Chapter – Special Measures to Enhance Maritime Security, ISPS Code – International Ship and Port Facility Security Code, Regulation (EC) No 725/2004 on enhancing ship and port facility security, Directive 2005/65/EC on enhancing port security, Security Protection of Maritime Vessels and Ports Act, Maritime Demesne and Maritime Ports Act, Private Security Act, By-Law on conditions and methods of enforcing technical protection, and By-Law on arrangement and classification of ports of nautical tourism. In the second part of presentation, a special examination is devoted to the issue of ports of nautical tourism security, and, in the given context, the following basic postulates are analyzed: maritime ports' term and classification in accordance with the Croatian law, regulatory framework of private protection in accordance with the Croatian law, security protection of maritime ports' system and service in accordance with the Croatian law (where the following issues are particularly analyzed: relevant regulatory framework's scope of application, security protection concept, methods of regulation and activity of security protection service providers, security protection assessment and plan, threat levels, methods of conduct, and security protection service provider's special empowerment) and security protection service providers' responsibility and liability for damage (with a special focus on the issue of standard of conduct and issue of mandatory third party liability insurance).

Dr. Boris Jerman
DPSS Secretary General /
Port of Koper

Boris Jerman is the Secretary-General of the Maritime Law Association of Slovenia, and till 2013 was the Assistant Professor at the University of Ljubljana, Faculty of Maritime Studies and Transportation. He studied law at the University of Ljubljana, where he earned both his MA and Ph.D. degrees in transportation law. He is the head of the Legal Department of the Port of Koper (Luka Koper d.d.) and actively involved in the academic sector. He has published extensively in the field of transport, logistic, maritime and commercial law.

**LEGAL REGIME OF MARINAS AND OTHER NAUTICAL
TOURISM PORTS IN SLOVENIA**

Slovene ports are regulated by the Maritime Code, which was adopted in 2001. Slovenia has a very small seacoast measuring only 42 kilometres. The only port for large cargo ships is the Port of Koper, but there are many other smaller ports or marinas used mainly for recreational activities. According to the Article 37 of the Maritime Code, these special-purpose ports are divided into four groups: recreational ports, tourist ports, local ports and other ports. Tourist ports, like all other special-purpose ports, fall under the competence of the local community where they are based and are mostly used for landing, storage wintering and provisioning of vessels intended for sport and recreation. Regardless if a port in Slovenia is under the competence of the Republic of Slovenia or local communities, both entities must provide public commercial services, such as maintenance and development of port infrastructure dedicated to public transport (with the exception of special purpose ports, which are not opened for public traffic), regular reception of ship-generated waste and maintenance of sea lanes and navigation safety facilities. The existence of tourist ports and their further development are regulated by decrees of local authorities. All tourists ports in Slovenia were established before the adoption of the Maritime Code in 2001 and most of them were built before the implementation of the existent Water Act, which regulates issuing of permits for water use. Now, however, any new or existing tourist port must apply for water use concession for construction of new facilities or significant expansion of the existent infrastructure in accordance with the Water Act.

Prof. Dr. sc. Ranka Petrinović
University of Split
Faculty of Maritime Studies

Ranka Petrinović was born in 1960, and graduated from the Faculty of Law, Split University, in 1983, completed post-graduate courses in Maritime Law and Law of the Sea and received her Master's degree in 2001 (the title of her thesis: *Insurance of Shipowners's Liability for Damage in Collision*). She was awarded in 2005. Her doctoral thesis is entitled *Protection of the Environment as the element of Modern Right to Salvage*. She worked first in "Split" Shipyard in the Sales Department as a legal consultant for Shipbuilding Contracts and Newbuilding Insurance (1986-1996) and later in the Legal Department of Shipping Company Jadroplov BE Ltd. (H.&M. Insurance and Registry of Ships) (1986-2002). At University of Split - Faculty of Maritime Studies, she has worked as lecturer (since 2002), assistant professor (since 2006), associate professor (since 2009) and full professor (since 2013). Ranka Petrinović was Associate Dean for Financial Affairs (2006-2010). She attended several professional seminars in the field of maritime law and marine insurance. She is a member of Croatian Maritime Law Association.

Prof. Dr. sc. Branka Milošević Pujo
University of Dubrovnik
Maritime Department

Branka Milošević-Pujo is full professor of the University of Dubrovnik - Maritime Department. She graduated from the Faculty of Law and Jurisprudence of the University of Zagreb in 1978. After the Diploma she started postgraduate Studies of the Law of the Sea of the University of Split where she earned Master's Degree in 1983. Later on she defended her doctoral thesis at The Faculty of Law - University of Belgrade in 1987. She was employed from 1978 to 1980 as an assistant to the Attorney General of the Court of Dubrovnik. She also passed State Exam for the Administration of Justice. From 1980 to 1991 she was employed in the shipping company "Jugooceanija", Kotor being its authorised legal representative in the maritime disputes at the courts of law. From 1991 onwards she has been employed as a maritime law expert in related subjects of the Maritime Faculty of Dubrovnik. She published a large number of scientific and professional papers, three manuals and one chapter in a book.

Doc. dr. sc. Nikola Mandić
University of Split
Faculty of Maritime Studies

Nikola Mandić was born in 1985 in Split, and graduated from the Faculty of Maritime Studies, University of Split in 2007 obtaining the degree of maritime transport engineer. He completed post-graduate courses in the Maritime Law and Law of the Sea at the Faculty of Law, University of Split, and received his Master's degree in 2010. He completed post-graduate doctorate studies in the field of Legal Sciences at the Faculty of Law, University of Mostar, in 2015 and acquired the doctoral degree (Ph. D.). His doctoral thesis was titled: *Liability of the Carrier in the Carriage of Goods by Sea with*

Special Reference to the Rotterdam Rules 2009. He has been employed at the Faculty of Maritime Studies, University of Split, as an assistant (since 2008), postdoctoral researcher (since 2015) and assistant professor (since 2016). Since 2009 Nikola Mandić has been cooperating with University of Split - Department of Marine Studies. He participated in twenty scientific conferences, cooperated in various scientific and professional projects, and has published thirty scientific papers. He is a member of Croatian Maritime Law Association (Rijeka), Economy Jurist Association (Split) and Croatian Association for Insurance Law (Zagreb).

SAFETY OF NAVIGATION STANDARDS IN THE PORTS OF NAUTICAL TOURISM WITH A SPECIAL FOCUS ON THE MAINTENANCE OF THE PORT ORDER

According to the Maritime Code, the Maritime Domain and Seaports Act and the Ordinance on the Conditions and Mode of Ordering in Ports and Other Parts of the Inland Waters and Territorial Sea of the Republic of Croatia, the concessionaire of each individual port of nautical tourism must issue an ordinance on the port and conditions of use of the special purpose port. This is a legal requirement arising from the legal status of the concessionaire of the nautical tourism port, as its managing body. Such Ordinance shall in particular regulate the means of traffic management in the port, and the purpose of particular shore areas in the port, whereby the concession holders in the ports of nautical tourism shall be obliged to take into account the needs for permanent and operational berths. Furthermore, apart from prescribing the purpose of individual port areas, the Ordinance also prescribes the reporting procedures, as well as the entering, mooring, berthing, moving, anchoring and leaving procedures of vessels and how they ought to be controlled, which is of vital importance for the safety of navigation and the protection of human life at sea. The Ordinance on the Order in the Nautical Tourism Port shall apply to the entire land and sea area of the Port, in accordance with the Maritime Concession Contract for the Construction and Use of the Port. The Ordinance on the order in port confirmed by the competent port authority shall be effectively publicized. However, the question that arises is what is the extent of power that nautical port authorities have if the ordinance provisions are violated, i.e., what are the powers of competent maritime-administrative and state authorities (Harbour Master, police)? In this paper, the authors analyze the scope and responsibilities of the nautical tourism port concessionaires with regard to maintenance of the order in the port. Above all, they explore its legal and practical role in ensuring the necessary standards of navigational safety, as well as the implementation of these powers in the practice of domestic ports of nautical tourism, with reference to available statistical data that point to the actual standards of navigational safety in domestic ports of nautical tourism.

Margita Selan Voglar
DPPS President /
Triglav Insurance Company
Ljubljana

Margita Selan Voglar is the President of the Maritime Law Association of Slovenia. She is President of Transport and Credit insurance Committee at Slovenian Insurance Association and she represents Slovenian Insurance Association at IUMI as Council Member. She graduated at the Faculty of Law in Ljubljana. After graduation she joined Triglav insurance Company, Ljubljana and is still working there as Director of transport insurances. Main domain of her activities is Road Carriers Liability and Cargo Insurances and she is co-author of publication CMR Convention with Commentary (2005). She regularly participates as lecturer in different seminars and conferences related to carrier's liability and transport insurances in Slovenia and Croatia.

LIABILITY OF MARINA OPERATOR AND ITS INSURANCE

According to Maritime Code of Slovenia, marina is touristic port used for landing, lay-up, wintering and supply of pleasure craft. For operation of marina, different licences are required as per state and local legislation. Services rendered by marina are defined in contracts they conclude with their customers where marina's liability is also defined together as in General Conditions of Business and in Book of Rules of Port Order. The presentation will cover these rules and obligations, which determine liabilities and obligations of marina operator and owners of boats and yachts. By insuring liability, marinas reduce the risk of claim on their business. Insurance coverage depend on activities that marina performs and risk assessment. What are main criteria that insurers look at risk assessment, which are minimum standards for safe operation of marinas? Extent of marina operators' liability insurance coverage can vary from case to case, which can also influence quality of their services. On international insurance markets, one can find different products that provide various coverage from operator's liability to third party liability, premises and other non-marine risks. Presentation will analyse coverage(s) used for insurance of marina operators' liability in Slovenian marinas. Not to be only on theoretical side, the presentation will cover some cases handled in the past for several insurance clients and show what is the lesson learned for both insurer and insured.

Dr. Federico Franchina
University of Messina /
Eurocontrol, Brussels

Federico Franchina obtained the Ph.D. degree (2016) in Maritime, Air and Transport Law at the University of Messina with a final dissertation on the topic “Limitation of Liability for Maritime Claims” and with a sixth-month studying period at Maritime Law Institute of Oslo (Norway). He obtained an LL.M. degree (2011) on maritime, air and transport with a dissertation on “Piracy: brief comments”, attending a major law firm in London and a major insurance company ever in London. He is also teaching assistant of Maritime Law, Air Law, Company Law and Insurance at University of Messina. He was awarded as a Rotary Club Young Emerging (2011), and is an expert (2013) of Italian Ministry of Transport and Infrastructure based in Rome and also an expert (2014) of European Agency on Aviation Safety based in Köln (Germany). He is a fellow (2015) at Institute for Studies in International Politics (ISPI), a *think tank* based in Milan (Italy) advising on energy, oil & gas and transport issues and he is a member of Italian Maritime law Association (AIDIM). Federico is also a legal expert (2017) at Eurocontrol, an international organization based in Brussels (Belgium) that deals with air traffic control in 47 European and no-European countries. Federico Franchina has published works, papers and articles on issues regarding transport, international relations, energy company and bankruptcy law and he even attended as speaker to several conferences and seminars on these topics around the world. He is also a lawyer admitted at Messina Bar (2011) advising public and private clients on transport, company, bankruptcy and energy law issues.

MARINA OPERATOR’S PROFESSIONAL LIABILITY **- ITALIAN LEGAL FRAMEWORK**

Marina operator is exposed to several risks dealing with both land and marine liabilities. It offers a broad range of marine services such as berthing, mooring, storage, fuelling, ship repair and maintenance. It also offer a number of land based services which can include car parks, retail, residential and commercial facilities. A marina operator is responsible for affording vessels that make use of its facilities with a safe berth. To that end, the marina operator has to advise vessel operators of any hazards or deficiencies associated with the marina or the berth in which the vessel is to moor. When the marina operator fails to do this, the operator becomes liable to the vessel operator for damage that results from the unsafe berth. Generally it is not so easy to deliver answers to questions that arise if guests vandalize a vessel during the middle of the night or if a forklift operator accidentally causes damage while putting a boat into storage. For example in the Italian legislation we may observe the absence of a specific contract applying directly to the relation between marina operator and vessel operators that creates several difficulties for recovery. Italian Courts and doctrine to this end and acknowledging the development of nautical tourism, have built a tool - the so-called “*contratto di ormeggio*” - that makes a risk and liability allocation among parties. The aim of this paper is then to trace a legal framework of this type of contract according to recent Italian legislation and judgments developments.

Dr. Vesna Skorupan Wolff
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Vesna Skorupan Wolff graduated in law in 1993 at the Faculty of Law, University of Zagreb (Croatia), where she also obtained her Ph.D. in 2005. She passed her Bar exam in 1995, and gained her LL.M. in 1999. Since 2003, she has been employed at the Adriatic Institute of the Croatian Academy of Sciences and Arts, where she currently works as senior research scientist. Between 1993 and 1998 she worked at a private attorney's office, and between 1998 and 2003, at the Supreme Court of the Republic of Croatia. Dr. Skorupan Wolff was part of the Professional Committee for the revision of the Croatian Maritime Code in 2012 and 2013. She is member of the editorial board of the scientific periodical publication Comparative Maritime Law. She has participated as researcher on several scientific projects funded by the Croatian Ministry of Science. She is board member of the Croatian Maritime Law Association, and member of the Croatian Association of Insurance Law. She has published a number of articles and academic papers. She has participated with papers at several domestic and international conferences related to maritime law.

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Adriana Vincenca Padovan graduated in 2002 from the Faculty of Law, University of Zagreb, where she also obtained her Ph.D. in 2011. She obtained her LL. M. degree in 2003 at the IMO International Maritime Law Institute (Malta). She is a research associate at the Adriatic Institute of the Croatian Academy of Sciences and Arts. From 2003 until 2010 she worked in the Marine Department of Croatia Insurance Co. In 2007/2008 she was assistant lecturer at the IMO/IMLI. She is a visiting lecturer at the Maritime and Transport Law Department of the Zagreb Law Faculty, where she has held the academic title of Assistant Professor since 2014. Dr. Padovan passed the Croatian bar exam in 2006. She holds training seminars in marine and transport insurance and is a mediator at the Centre for Mediation of the Croatian Insurance Bureau. Dr. Padovan takes part in the professional committees of the Croatian Ministry of the Sea, Transport and Infrastructure for the drafting of the marine legislation. She leads a national research project financed by the Croatian Science Foundation. She has published over fifteen professional and academic papers, a chapter in a book and a monograph.

**THE EFFECT OF THE CRAFT'S SINKING ON THE CONTRACTUAL
RELATIONSHIP OF THE PARTIES TO THE CONTRACT
OF BERTH AND CUSTODY OF THE PLEASURE CRAFT**

The cases of sinking of pleasure craft whilst on berth in a marina are not often, but statistics show they do occasionally occur, and when this happens, the chances are that the incident will eventually lead to a dispute between the marina and the owner of the vessel as to liability for damage or loss caused by such sinking. Besides the obvious damage to the vessel itself, such incident in a marina will inevitably cause expenses for the lifting,

removal or recovery of the sunk vessel and potentially even damage to the infrastructure or equipment of the marina, depending on the circumstances of the individual case. From a legal point of view, such incident will have an effect on the contract of berth between the marina operator and the owner, operator or user of the vessel. The liability arising therefrom will depend on the circumstances of each case, in particular of the cause of such sinking, and it shall be interpreted in accordance with the contract of berth and the applicable national law. The causes of sinking can be various, from the extreme weather conditions to unseaworthiness of the vessel, the inadequacy of the berthing or mooring equipment or infrastructure, flooding, fire, lack of maintenance, a collision within the marina or else. In each individual case, the predominant cause of sinking will have to be determined and depending thereupon the liability of one of the parties to the contract of berth will be established, unless it is proven that the damage was caused by an act of God. The question is also, what the destiny of the contract of berth after such sinking will be, i.e. whether the contract will remain in force or it will automatically end or whether any of the parties will be entitled to rescind or cancel the contract. Such legal consequences will also vary depending on the cause of the sinking and the terms of the contract. Whilst analysing the effect of the sinking on the berthing contract, the authors look into the incidence of such accidents in the Croatian marinas, the marina operators' common practices and protocols related thereto and generally the preventive measures that the marina operators usually implement in the interest of the safety of navigation. The analysis includes the issue of potential liabilities of the parties to the contract of berth, and the destiny of the contract following a sinking accident. The paper discusses the various legal consequences of the sinking in the context of the contract of berth in a marina, considering in particular its specific nature and contents as an innominate atypical contract. The discussion leads to the question whether the contract of berth contains any elements of the contract of care and custody or whether it is purely a contract for the use of the nautical berth. The authors refer to the relevant court practice and present certain solutions in comparative legal doctrine and practice.

Avv. Angelo Merialdi
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Angelo Merialdi has been partner of the law firm Siccardi Bregante & C. in Genoa, Italy, since 2004. Before joining the firm, he undertook work placements with the Maritime Safety Unit at the European Commission and with RINA (the Italian Classification Society) and obtained a Research Doctorate in International Law at the University of Florence. As a keen (but alas hopeless) cyclist he is inspired by Albert Einstein's quote "Life is like riding a bicycle. To keep your balance you must keep moving".

ENFORCEMENT AND SETTLEMENT OF PORT OPERATOR'S CLAIMS IN ITALY

Marinas and port operators in Italy offer a wide range of services including mooring, supply of food/water/power, other ancillary activities (*e.g.* agency, travel arrangements etc.). The remedies afforded by Italian law to a marina who intends to secure and enforce its rights on the yacht of a defaulting client are in principle the right of retention and the arrest of yacht. The right of retention over goods is provided by art. 2756 and 2761 of the Italian Civil Code only in relation to specific claims. These include claims for remuneration of repair works, maintenance and deposit. As, under Italian law, it is uncertain whether a contract of mooring is to be assimilated to a deposit contract, rather than to a lease contract or a *sui generis* contract, the existence of a right of retention may be questionable in general and is to be tested on case by case basis. As for the arrest of yacht, the application of the 1952 Brussels Convention in Italy will be analyzed with particular reference to qualification of claims for services provided by marinas as maritime claims, mostly under letters k), l) and n) of art. 1. Finally the possibility to arrest a yacht for credits against its charterers under art. 3.4 of the 1952 Brussels Convention will be discussed in the light of Italian case law and views expressed by author.

Dr. Marija Pijaca
University of Zadar
Maritime Department

Marija Pijaca is postdoctoral researcher at the Maritime Department of the University of Zadar where she held lectures in several courses in the domain of maritime law and in course of commercial law at the Management Department of the University of Zadar. She graduated from the Faculty of Law of the University of Zagreb and after graduation enrolled in the Postgraduate Scientific Study of "Maritime Law and the Law of the Sea" at the Faculty of Law of the University in Split. During the Postgraduate Studies she showed interest in the majority of courses, especially in the matter of maritime property law. She completed the postgraduate master's degree studies at the Faculty of Law of the University of Split with the thesis "Contracts on Towing Operation at Sea". Marija Pijaca obtained her PhD degree at the Faculty of Law of the University of Rijeka with the thesis "Bareboat charter". She lived and worked in London for the British-Croatian Chamber of Commerce. She is author and co-author of few scientific papers. Also, she is the author of a scientific monograph titled "Bareboat charter".

LEGAL RELATIONSHIP BETWEEN MARINA OPERATOR AND CHARTER AGENCY ARISING FROM THE CONTRACT OF BERTH - COMPARATIVE ANALYSIS

This paper presents legal relationships between marina operator and charter agency arising from the contract of berth by comparing the regulation of the Croatian, Italian and Slovenian legal sources of this contractual relationship. In the analysis of legal sources, in addition to the regulation of maritime law, the evolutions of the civil law of the selected countries are also analyzed, which are important for the arrangement of the relations between the contracting parties. Also, the general operating conditions of several Croatian, Italian and Slovenian marinas are analyzed and they provide examples of the content of the regulation of several contractual agreements concluded between the marinas and charter agencies collected during the research. This article mainly defines the concept and the legal nature of the contract regarding berths and defines the parties of the contract - marina on one side and charter agencies on the other. Then the common content of the rights and obligations of each contracting party is established, inter alia, the marina's obligation to provide a place for berth, and the obligation of the charter agency regarding the payment of the berth. The issues of party liability are also considered, and it is emphasized that the very issue of responsibility creates a lack of clarity between the contract parties in practice in regulating their legal relationships. Above all, questions of liability arise in the case of damage to a charter's vessel or thievery on the same vessel. Finally, the conclusion summarizes the ways of establishing relations between the parties taking into consideration the berth, based on legal sources of selected countries and determines that the present analysis result in very similar solutions.

Avv. Lorenzo Fabro
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Lorenzo Fabro graduated in Law with honours at the University of Genoa in 2005 with a dissertation on marine hull insurance. He joined Studio Legale Maresca in 2005 as a trainee; in 2008 he was admitted to the bar of Genoa and became partner of same law firm in 2009. He spent a training period in a London law firm working on several shipping legal matters, he worked at the Consulate of Italy in Cape Town (South Africa) as *stagiaire* of the Ministry of Foreign Affairs and attended the 2009 summer course of International Private Law at the Hague Academy of International Law. He is founding partner of Berlingieri Maresca Studio Legale Associato and his practice includes assisting clients during contractual negotiations, dispute resolution and litigation before courts and arbitrators with considerable experience in maritime law, international trade law and comparative law issues and particular interest in shipbuilding contracts as well as contracts of sale and purchase of ships and yachts. Lorenzo Fabro is a member of the Executive Committee of the Young Group of Italian Association of Maritime Law (AIDIM), and he writes regularly as contributor in *Diritto Marittimo* law review and in other publications specialized in shipping law. He is invited as a speaker at seminars and conventions in Italy and abroad. He speaks English and French.

Avv. Filippo Cassola
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Filippo Cassola graduated in 2005 at Law with honours at the University of Genoa with a dissertation on Port Authority and regulations. After spending a trainee period in London at Stephenson Harwood in the shipping finance department, he joined Studio Legale Berlingieri in 2006 as a trainee being then admitted to the Bar of Genoa in 2010. He became partner of Studio Legale Berlingieri in 2016. He is founding partner of Berlingieri Maresca Studio Legale Associato, and his practice includes all the areas of shipping litigation with particular focus on arrest and forced sale of vessels, ship financing and shipbuilding contract, multimodal and land carriage, port concessions. He is a member of AIDIM (Italian Maritime Law Association) and contributes to the quarterly “Il Diritto Marittimo”. He is attending seminars and conferences in shipping matters in Italy and abroad. He speaks English.

**THE CONTRACTS OF CONSTRUCTION OF YACHTS AND
PLEASURE CRAFT: AN ITALIAN PERSPECTIVE ON
THE MOST RELEVANT LEGAL ISSUES**

The aim of our presentation is to provide a general overview on the Italian legislation and practice on the legal topics concerning the contracts of construction of yachts and pleasure crafts, including an analysis on the relevant clauses and reference to the relationship between said contracts and the leasing contracts. The speech is intended to offer some hints

on the main aspects as regulated by the most commonly adopted contractual clauses. After an introduction on the nature of the contract of construction in relation to the discipline of contracts of sale and contracts “for work and materials” (*contratto di appalto*), the issues of the transfer of title/property and the registration of contracts of construction under the provisions of Italian Navigation Code will be considered. Financing and leasing topics will be then addressed with particular reference to the market practice and the principles stated in the most recent decisions of the Italian Courts. Furthermore, the certification under Directive n. 94/25/EC as amended by nr. 2003/44/EC will be described together with an overview on the main differences with the classification of the Registries. An analysis on the possible causes of dispute between buyers and builders will complete the presentation with some comparative remarks regarding the discipline of the guarantee for defects and the termination in the contracts of construction of yachts and of vessels.

Zdravko Kačić, LL.B.
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Zdravko Kačić graduated law at the University of Zagreb - Faculty of Law in July 1997. He joined the Law Office of Prof. Dr. Hrvoje Kačić and was admitted to Croatian Bar Association in 2001. In 2008 he set up the Law Firm Kačić & Brbora, where he is the managing partner. With the shipping law as the core practice, he advised in large number of cases related to Shipping, Shipbuilding and Ship-repairs; P&I and Marine Insurance; Marine Accidents and Pollution; Investments in Port and Yacht Marinas, Contract Law, Insurance, Finance, Commercial Litigation, Arbitration, Arrest and attachment, Enforcement, Banking and Aviation. He is a member of the Croatian Bar Association, the Croatian Maritime Law Association and the legislation committee for Croatian Maritime Code, participated in international seminars and conferences and published articles professional publications.

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Tihomir Duplić graduated at the University of Zagreb - Faculty of Law in December 2005. He joined Kačić Law Firm in 2006 as a trainee being then admitted to Croatian Bar in 2009. He became partner of law firm Kačić & Brbora in 2014. He attended the Lloyds Maritime Academy in London in 2011 and participated in numerous maritime conferences and education worldwide such as Tulane Admiralty Law Institute in New Orleans, LA in 2013, Ship Arrest conferences in Hamburg, Dubai, Singapore, etc. With the shipping as the core practice, he advised in large number of cases related to Shipping; Ship Finance; Ship Registration; Ship Sales and Mortgages; Arrest of the Vessels, Shipbuilding and Ship-repairs; P&I and Marine Insurance; Marine Accidents and Pollution; Carriage of Goods by Sea; Personal Injuries of Seafarers; Yachting and Yacht Marinas, Contract Law; Finance; Aviation; Commercial Litigation; Professional Liability; Banking; Commercial and Corporate law. He is a member of Croatian Bar Association and Croatian Maritime Law Association. Tihomir Duplić has been invited as a speaker at various seminars and conferences in Croatia and abroad.

**FINANCING OF PLEASURE CRAFT AND OTHER
VESSELS USED IN NAUTICAL TOURISM**

The goal of presentation is to briefly present and introduce the main differences between financing of the pleasure craft and other vessels (i.e. merchant vessels), as well as the most common problems which leasing companies may face during the finance period. The authors will shortly elaborate the main principles of financing of the pleasure craft by the leasing companies by way of either finance leasing or operating leasing, exposures and liabilities (in law) of the leasing companies, as the registered owners of the pleasure craft during the finance period, which appear not to be well recognised by the leasing companies, according to their standard business practice. Finally, the presentation will also introduce the certain problems in securing the financing of the pleasure craft by the leasing on one side and financing of the merchant vessels on the other side.

Avv. Dr. Elena Orrù
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Department of Legal Studies

Elena Orrù graduated in Law *magna cum laude* with a thesis in Transport Law, for which she received the Paolo Cagnoni Prize 2001/2002 and the Rotary Prize for the Faculties of the University of Bologna 2001/2002. She obtained her PhD in European Transport Law at the University of Bologna in 2007. She is a member of the Bologna Bar Association since 2007 and she cooperated with Studio Zunarelli & Associati Law Firm in Bologna from 2003 to 2009, previously as trainee then as Associate. Since November 2010, Elena Orrù has been Tenured Assistant Professor of Navigation Law at the Department of Legal Studies of the University of Bologna. She has also obtained the National Scientific Qualification (ASN) to function as Associate Professor in Italian Universities, and has been also Adjunct Professor of Transport Infrastructures Law, School of Engineering and Architecture, University of Bologna, Ravenna Campus. Elena Orrù has always been accustomed to international professional context, participating to research groups both at international and Italian level, spending research periods at the VUB in 2003 and at the Scandinavian Institute of Maritime Law in 2005. In 2011 she was Visiting Professor at the Westminster University London. Elena Orrù is a regular speaker in international and Italian conferences and the author of books and articles on both contract and public Maritime, Air and Transport Law. She is a member of AIDIM, Regional Committee of Genoa, of AIDINAT and of the International Propeller Club, Port of Bologna. She is member of the Scientific Board of the “*Rivista Italiana di Diritto del Turismo*”, and of the Editorial Boards of the reviews “*Il Diritto Marittimo*”, “*Rivista Italiana del Diritto della Navigazione*” and “*International Transport Law Review*” and of the book series “*Il Diritto Marittimo - Quaderni*”.

**CONTRACTS USED FOR THE CHARTER OR HIRE OF PLEASURE
CRAFT AND OTHER VESSELS IN PLEASURE NAVIGATION:
AN ITALIAN PERSPECTIVE**

The Italian Navigation Code has transposed the practices developed at international level, in particular in international contracts for the lease and charter of ships, distinguishing between the ship lease, from the one side, and the charter, from the other, as voyage charter or time charter. However, the Italian discipline differs in several respects from the contract types developed at international level. As for pleasure craft, a specific regime lacked until the Law No 50. of 11 February 1971. The great development of this sector (which was previously considered limited to the use of pleasure craft only for personal purposes), in particular of the entrepreneurial use of these craft, furthered the draft and enactment of the Pleasure Navigation Code (Law No 171. of 18 July 2005). The Code provides for a special regime of the contracts for the lease and charter of pleasure craft: the purpose of the presentation is to review the regime of these contracts provided by the Pleasure Navigation Code, with regard also to its relationship with the Navigation Code and the Civil Code. Moreover, the Code’s provisions will be examined with reference to the actual modes of employing pleasure craft and to the main contracts developed at the international level.

Prof. Dr. Dorotea Ćorić
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Dorotea Ćorić is full professor and head of Department for Maritime and Transport Law, University of Rijeka, Faculty of Law. She holds lectures on Maritime and Transport Law, Marine Environment Protection Law and Maritime Administrative Law. Professor Ćorić is author of one textbook, one scientific book and many peer-reviewed scientific articles and professional papers in the domain of maritime law. She was member of the Expert Working group for drafting Croatian Maritime Code 1994 and 2004 and its amendments. Professor Ćorić is Vice-President of the Croatian Maritime Law Association.

THE LEGAL REGIME OF MARINE POLLUTION PREVENTION FROM VESSELS IN NAUTICAL TOURISM

Considering the maritime and tourist orientation of the Republic of Croatia the author emphasizes the Croatian interests in preserving its sea from pollution. The constantly growing number of vessels sailing in Croatian internal waters and territorial sea, and using its marinas and other nautical ports, represent a serious threat to the marine environment. In this regard the main purpose of this paper is to provide a brief overview of the Croatian legal framework regulating technical standards of prevention of pollution from recreational vessels, i.e. yachts, pleasure craft and other vessels used in nautical tourism. The paper analyzes the Croatian regulations and rules for statutory certification for yachts and boats of Croatian nationality with special focus on technical requirements relating to prevention of pollution by oil, sewage, garbage and marine fouling that yachts and boats must fulfil. The paper also stresses that this standards apply to foreign recreational vessels that are used commercially for the purpose of charter or rental. In addition, the paper analyzes the quality of the implementation of prescribed pollution prevention standards, as well as the sanctioning of the non-conformity of yachts and boats with the relevant pollution standards. In conclusion, the paper gives directions for the possible modifications and improvements of the existing legal regime.

Dr. Giovanni Marchiafava
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Giovanni Marchiafava has been involved in research activity in Transportation Law since 2000. In June 2006 he was awarded a Ph.D. in Transportation Law at the University of Rome, La Sapienza and in 2008 a LL.M. in Maritime Law at the University of Southampton (UK). In 2009 he was awarded a Research Fellowship at the University of Rome, La Sapienza, for two years on the issue: “International Harmonization of Marine Insurance Conditions”. He undertook research at the International Maritime Organization (IMO), where he also attended, as an observer, sessions of the Legal Committee. In 2012 he was Lecturer at the Second Level Master Degree in Transportation Law at the Pegaso Online University. In 2016 Giovanni was appointed as external examiner in the Research Degree Programme (Ph.D.) in International Maritime Law at the International Maritime Law Institute (IMLI). In 2017 he obtained the National Scientific Qualification as Associate Professor. Giovanni Marchiafava is author of a monograph, several articles and case notes related to Maritime and Transportation Law. His other activities: since 2000, member of the editorial board of the law review “Diritto dei Trasporti”; since 2004, member of the Rome Bar Association and as a lawyer providing legal advice and assistance on Civil, Maritime, Public and Transportation Law; since 2001 and 2003, member respectively of the Transportation Legal Studies Institute (ISDIT), Cagliari and the Italian Maritime Law Association (AIDIM), Roma Regional Committee.

LEGAL STATUS OF CREW MEMBERS ON PLEASURE CRAFT AND OTHER VESSELS USED IN NAUTICAL TOURISM

The presentation aims at examining the issue related to the legal status of the crew members of pleasure craft and vessels used in nautical tourism from the Italian perspective. Firstly, the composition, organisation, hierarchy, nationality, duties and obligations of the crew are examined. Moreover, the on-board documentation related to the crew is analysed. Furthermore, the main similarities and dissimilarities of the crew regime, according to the type of pleasure craft and vessel and their use, are discussed. The liability aspects related to the crew are pointed out. The presentation also deals with the training and qualifications of the crew, according to Italian, European and International regulations. Finally, the issue related to the legal classification of the crew of pleasure craft and vessels used in nautical tourism through a comparative analysis is considered.



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