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Legal regulations for ships arriving in and/or departing from ports – Achievements and open issues

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ABSTRACT

This paper gives an overview of the legal regulations on reporting formalities for ships arriving in and/or departing from ports, both on international and EU level, as well as about the solutions in the Republic of Croatia. In particular, there are analyzed the achievements of the International Maritime Organization (IMO), which represent the base for further action. The European Union has recognized the importance of an efficient and harmonized procedure for ships arriving in and/or departing from ports by adopting a range of legal instruments aimed at reducing administrative barriers for ships arriving in and/or departing from European ports. This paper especially analyzes the solutions of Directive 2010/65/EU of the European Parliament and of the Council on the official application procedure on reporting formalities for ships arriving in and/or departing from the Member States ports and repealing Directive 2002/6/EC. It also analyses Regulation (EU) 2019/1239 of the European Parliament and of the Council on establishing a European Maritime Single Window environment and repealing Directive 2010/65/EU. The reasons for the adoption of Regulation (EU) 2019/1239 shall be specifically explained. In the last part of the paper, the authors review the achievements of the Republic of Croatia in implementing measures for establishing a single national Window. By comparing the solutions contained in EU regulations and Croatian by-laws, the authors point to the existence of non-compliance and to the need for further action.

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1 Introduction

Maritime transport is the main part of the integrated maritime policy of the European Union and national policies. It is accompanied by complex administrative procedures set by a variety of international, European and national regulations, not only in the maritime domain but also in the fields of customs, taxes, immigration, security and safety, waste management, health care, etc. Because of the above mentioned reasons, at the moment of ships arriving in and/or departing from ports, the competent public administration authorities request a number of documents and information relating to these areas. The analysis of the practice and the statistical processing of the data collected have led to the conclusion that the applications and procedures necessary for their completion are

repetitive and time consuming, thus creating additional costs and time waste which can make maritime traffic less attractive. Although the first efforts at the international level were made more than half a century ago, by adopting the Convention on Facilitation of International Maritime Traffic (FAL), the activities at the level of the European Union had intensified over the last ten years, and the Republic of Croatia, as the Member State of the European Union and a maritime state, strives to contribute to the development of the system of ships arriving in and/or departing from ports. In view of the above, the aim of this paper is to give an overview of the activities of the relevant bodies, primarily the International Maritime Organization and the European Union, with special attention to the legal regulation of the ships arriving in and/or departing from ports in the Republic of Croatia.

2 IMO contribution to the simplification of the ships' arrival in and/or departure from ports

2.1 Preliminary observations

The International Maritime Organization (hereinafter: IMO) is one of the world's most important organizations responsible for the safety and efficiency of international navigation and the prevention of marine pollution from ships. More than fifty international conventions and agreements have been adopted under the auspices of the IMO [2], including the Convention on Facilitation of International Maritime Traffic (FAL), also known as the IMO FAL Convention.¹ The IMO FAL Convention is the result of the need to standardize the procedures for the arrival and departure of ships in ports of a particular country and to reduce the administrative costs incurred precisely for the purpose of call of the ship. Before adopting the IMO FAL Convention, each state had its conditions and imposed them on foreign ships, as well as their own procedures and documents, which had to be submitted to the various regulatory authorities several times, which lead to excessive ship detention and frequent delays.

2.2 Basic characteristics of Convention on Facilitation of International Maritime Traffic (FAL)

The main objective of the Convention on Facilitation of International Maritime Traffic is to achieve as simple, as efficient and as secure maritime traffic and cross-border maritime trade as possible by encouraging cooperation between States. When writing the IMO FAL Convention, IMO has implemented already well-known structure, which is to consolidate binding norms and recommendations into one act. Consequently, the IMO FAL Convention has the basic text of 16 articles, one annex containing standards and recommended practice on procedures to be followed for the arrival, stay and departure of not only ships but also crew, passengers, baggage and cargo. Two Appendixes are also an integral part of the IMO FAL Convention. Appendix 1 contains standardized IMO FAL forms and Appendix 2 refers to the stowaways, as referred in recommended practice under point 4.6. [2]

In order to simplify and harmonize the exchange of information between the member states, IMO FAL Convention has set standardized IMO FAL forms for seven documents to be used by all member states, namely IMO FAL Form 1 – General Declaration, IMO FAL Form 2 – Cargo Declaration, IMO FAL Form 3 – Ship's Stores Declaration, IMO FAL Form 4 – Crew's Effects Declaration, IMO FAL Form 5 – Crew List, IMO FAL Form 6 – Passenger List and IMO FAL Form 7 – Dangerous Goods Manifest. As the

name itself says, IMO FAL Form 1 contains general information about the ship and the voyage. Thus, the General Declaration provides information regarding the name of the ship, IMO number, call sign, voyage number and flag state of ship, port of arrival and departure and signature of the authorized person. In addition to the general information, the General Declaration contains information on the date and time of arrival or departure of the ship, the name and the contact details of the ship's agent, as well as the cargo, crew and the number of passengers. The second IMO FAL form is Cargo Declaration. The Cargo Declaration shall contain information on the ship and the cargo, indicating the number and type of packages, the description of the goods, the HS code (if available), the gross weight and the unit of measurement of the cargo. IMO FAL Form 3 represents Ship's Stores Declaration, which shall include information relating to the stores, such as name of the article, quantity, location on board and official use. IMO FAL Form 4 refers to the Crew Effects Declaration, referring to personal belongings of crew members and contains information about the crew's personal belongings, their given name, family name and their rank or rating. It is important to point out that this form also lists items that cannot be exempted from relief from customs duties and or are subject to prohibitions or restrictions on their entry into the country to which the ship is sailing. IMO FAL Form 5 – Crew list is kept in the form of the log in order to determine who, when and based on what document is boarded and what tasks he or she performs. It serves as a confirmation of the arrival and departure of the ship to/from the port and is issued by the Harbour Master's Office. The crew list contains the most important information about the crew members – family name, given name, rank or rating, nationality, date and place of birth, gender, number of identity document, issuing State of identity document and expiry date of that identity document. On arrival, the ship is obliged to provide, among other things, information on passengers on board. IMO FAL Form 6 – Passengers list is required for longer maritime voyages; it provides passenger and voyage information. The same form is used for the arrival and departure of a ship to / from the port. This form contains the most important information about passengers – family name, given name, nationality, date and place of birth, gender, type and serial number of the identity or travel document, issuing state of identity or travel document and expiry date of the document, port of embarkation and disembarkation. The last in a series of forms is intended for a special category of cargo, which are dangerous goods. IMO FAL Form – Dangerous Goods Manifest is issued by a ship carrying a dangerous cargo detailing the stowage position, reference number, marks and numbers, UN number, proper shipping name, subsidiary risks, packing group, additional information, number and kind of packages, mass and volume, and EmS.

In addition to the IMO FAL forms described above, the ship is required to submit another form, the Maritime Declaration of Health, which must be submitted in ac-

¹ The FAL Convention has been ratified by 123 countries, including the Republic of Croatia, which became a Member State in 1991 on the basis of succession notification.

cordance with International Health Regulations. This form states the health status of the ship's crew and the manner of providing medical assistance to the sick on board. The master of the ship is obliged to provide information on the port and ship, date of arrival, port of arrival and port of departure, net registration tonnage and name of the master of the ship. The master of the ship should also fill in a questionnaire about possible diseases and enter information about the person in case of illness or death on board.

The IMO FAL Convention had been amended several times since its adoption in 1965. The latest amendments were adopted in 2016 and entered into force on 1 January 2018. With these changes, all IMO FAL Forms have been modified except the Ship's Stores Declaration – IMO FAL Form 3, and have been in force since 01st January 2018. Since April 2019, electronic information exchange has become compulsory for all, with the aim of making it even easier to exchange data between countries; the Member States have so-called a transitional period of at least 12 months during which they must establish electronic information exchange systems on arrival and departure of the ship.

In addition to electronic information exchange, the IMO also encourages the use of a maritime single window to allow the submission of information through a single portal without the need for duplication of documents. In addition to the modification of IMO FAL forms and their compulsory electronic submission, there have been included three additional documents which may be requested by the competent authorities of a Member State. The first document refers to information related to security in accordance with clause XI -2 / 9.2.2. of SOLAS Convention. The attention was also paid to the risk assessment process carried out by the competent customs authorities, where the success of an accurate and comprehensive assessment depends also on the available cargo data, so that in 2018 the World Customs Organisation issued Advance Cargo Information (ACI) Implementation Guidelines. [1] The third document refers to the delivery of information about ships' waste and the need for the ship to deliver it to land-based receiving facilities or the terminal. In order for service providers to plan the reception of waste and cargo residues in a timely and quality manner, as well as to inform the persons managing the terminal in case they are unable to accept a particular type or quantity of waste, it is essential that they receive prior notification of delivery. Under the MARPOL Convention, there is Standard Format of the Advance Notification Form for Waste Delivery to Port Reception Facilities. [2] It is indisputable that ships, crew, passengers and cargo in international navigation should be subject to a series of official controls and procedures, both on arrival and departure from the port, all in order to achieve safety, reduce pollution of the sea and port area, and prevent appropriate security threats. These controls also address a wide range of issues related to public health insurance, the control of imports and exports of cargo subject to certain restrictions or prohibitions, and the prevention of human trafficking.

3 The European legal framework for ships arriving in and/or departing from ports of the Member States

The obligation to submit large amounts of data and documents to the addresses of different public authorities, port authorities and concession holders using specific systems and forms is a burden for both shipping companies and the individual country; they can also be a major obstacle to the development of international trade, especially in developing countries. Establishing a single window is one way of dealing with this problem, which can improve the accessibility and handling of information and simplify and accelerate information flow among stakeholders. The European Union is making great efforts in establishing a legal framework and implementing measures that will enable this. The following sections outline the relevant secondary law solutions for ships arriving in and/or departing from ports of the European Union.

3.1 Directive 2010/65/EU on reporting formalities for ships arriving in and/or departing from ports of the Member States and repealing Directive 2002/6/EC

In line with the Maritime Policy Action Plan, a number of concrete measures have been launched, including the Communication from the Commission regarding strategic goals and recommendations for the EU's maritime transport policy which promotes safe and efficient maritime traffic [4] and the Communication and action plan with a view to establishing a European maritime transport space without barriers [5] to the common goal of reducing the administrative burden and facilitate maritime transport between ports in the EU. Directive 2010/65/EU on reporting formalities for ships arriving in and/or departing from ports of the Member States and repealing Directive 2002/6/EC has been adopted as one of many regulations for establishing a single maritime transport space without barriers. The provision in Article 1 of Directive 2010/65/EU clarifies the purpose of its adoption, which is 'to simplify and harmonize the administrative procedures applied to maritime transport by making the electronic transmission of information standard and by rationalizing reporting formalities.' Consequently, it follows that Directive 2010/65 / EU only regulates the methods of collecting and exchanging information and simplifying and harmonizing the procedures for exchanging it, without prejudice to the nature and content of the information requested. The provisions of Directive 2010/65/EU regulate various issues related to the official procedure on reporting formalities for ships. The scope of Directive 2010/65/EU is defined in Article 1 (2) in such a way that it shall apply to the reporting formalities applicable to maritime transport for ships arriving in and ships departing from ports situated in Member States. The concept of a 'ship' means any seagoing vessel or craft which means that yachts and boats are included, for example. Directive 2010/65/EU does not im-

pose restrictions regarding gross tonnage or type of ship, but does allow certain exemptions from its application. In accordance with Article 9 of Directive 2010/65/EU, ships operating between ports situated in the customs territory of the Union, but not coming from a port situated outside that customs territory, or a free zone that is subject to type I controls under customs legislation, which do not call at or are headed towards a port situated outside that territory, are exempt from the obligation to send the information referred to in the FAL forms. However, this exemption is not absolute in view of the fact that Member States are given the possibility to impose by national regulation the obligation that may request information in the FAL forms (referred to in points 1 to 6) which is necessary to protect internal order and security and to enforce customs, fiscal, immigration, environmental or sanitary laws.

In accordance with Article 5 of Directive 2010/65/EU, Member States are required to establish the so-called a single window, linking SafeSeaNet, e-Customs and other electronic systems. The single window shall be the place where all information is reported once and made available to various competent authorities and the Member States.

Directive 2010/65/EU specifies which persons are required to deliver the information requested and sets the time limits for their submission. The master or any other person duly authorized by the operator of the ship prior to arriving in a port situated in a Member State, provides notification of the information required under the reporting formalities to the competent authority designated by that Member State: at least 24 hours in advance or at the latest at the time the ship leaves the previous port, if the voyage time is less than 24 hours. If the port of call is not known or it is changed during the voyage, as soon as this information is available.²

Since maritime transport has international character, when adopting Directive 2010/65 / EU, there have been taken into the account the decisions of the International Maritime Organization relevant to this area, namely the Convention on Facilitation of International Maritime Traffic (FAL) and the application of IMO FAL forms. Accordingly, it was necessary to define the interrelation of these forms and systems for electronic data exchange at the level of the European Union. The provision in Article 7 of Directive 2010/65 / EU provides that Member States shall accept FAL forms for the fulfilment of reporting formalities for carrying out the official ship registration procedure. It should be noted that Directive 2010/65 / EU must refer to the version of the FAL Forms that are currently in force, so that the Commission should continually monitor the work of The Facilitation Committee of the International Maritime Organization and propose amendments to the Directive itself. Currently, the 2017 edition is being applied, which con-

tains supplements and amendments adopted in 2016 with mandatory application from 1st January 2018.

In accordance with Article 8 of Directive 2010/65/EU, Member States shall take the necessary measures to ensure the confidentiality of commercial and other confidential information exchanged in accordance with this Directive. The Directive itself does not define what is to be considered confidential information, nor does it refer to a legal act on which such definition/judgement should be made. The absence of a clear solution, of course, leaves room for Member States to regulate this issue differently, which is contrary to the objectives set out in the Commission's strategic documents, including Directive 2010/65/EU itself.

The Commission shall draw up a report on the implementation of Directive 2010/65/EU, about the possible implementation difficulties, deficiencies and inconsistencies and shall submit it to the European Parliament and the Council within the time limit defined by the Directive itself. The report on the implementation of the Directive was submitted by the Commission on 25 June 2014.[12] The report states that all Member States have transposed Directive 2010/65 / EU into their national legal system and have taken the necessary steps to establish a maritime national single windows. However, the Report also points out that there is considerable variety of single window concepts, systems and environments, approaches to create a single window and the state of play of development within the Member States. As a result, Regulation (EU) 2019/1239 repealing this Directive has been adopted.

3.2 Regulation (EU) 2019/1239 of the European Parliament and the Council on establishing a European Maritime Single Window environment and repealing Directive 2010/65/EU

The main aim of this Regulation (EU) 2019/1239 is to lay down harmonized rules for the provision of the information that is required for port calls, in particular by ensuring that the same data sets can be reported to each maritime National Single Window in the same way. The subject matter of the Regulation is determined by Article 1, which is to establish a framework for a technologically neutral and interoperable European Maritime Single Window environment ('EMSWe') with harmonized interfaces, in order to facilitate the electronic transmission of information in relation to reporting obligations for ships. The same provision defines the scope of reporting obligations for ships arriving at, staying in and departing from a Union port. Regulation 2019/1239 introduces new terms such as 'European Maritime Single Window Environment', 'harmonized reporting interface module', 'data element', 'EMSWe data set', 'graphical user interface', 'common addressing service', 'declarant', 'data service provider' as well as their conceptual definition.

One of the most important terms is the 'declarant' since he/she is the holder of numerous obligations in the

² See also Rukavina, B., Rak, L., Buneta, S., Legal framework for establishing a single maritime transport space without barriers, Pomorski zbornik, No. 52, 2016, p. 173.

process of reporting a ship and submitting the required information. A declarant means any natural or legal person who is subject to reporting obligations or any duly authorized natural or legal person acting on that person's behalf within the limits of the relevant reporting obligation.

Regulation 2019/1239 imposes an obligation on Member States to, by 15 February 2020, notify the Commission of any reporting obligations stemming from national legislation and requirements, as well as of the data elements to be included in the EMSWe data set. Article 8, of Regulation 2019/1239 lays down an extremely important principle, the so-called the 'only once' principle, which means that Member States should ensure that the declarant is required to provide information only once for each port call. Furthermore, Member States shall ensure that the data elements of the EMSWe data set provided at departure from a port in the Union are made available to the declarant for the purpose of fulfilling the reporting obligations at arrival to the next port in the Union, provided that the ship has not called at a port outside of the Union during that voyage. In accordance with Article 8 (4) of Regulation 2019/1239, any relevant data elements of the EMSWe data set received in accordance with this Regulation shall be made available to other maritime National Single Windows via the SafeSeaNet.

This Regulation 2019/1239 shall apply from 15 August 2025 and Directive 2010/65/EU is repealed from 15 August 2025. This Regulation shall be binding in its entirety and directly applicable in all Member States.

4 National Regulations on reporting formalities for arriving and/or departing ships

4.1 Regulation on the single window for formalities in maritime transport

By the adoption of the Regulation on the single window for formalities in maritime transport [10], the Croatian legislature has fulfilled the obligation to transpose the provisions of Directive 2010/65/EU into the national legal order. The Regulation was adopted in 2015 with the aim of reducing the administrative burden and improving the quality of public services by standardizing and streamlining the official application procedure based on the principle of 'only-once' delivery of certificates, documents and data. The Regulation defines terms and manner of harmonised delivery and exchange of certificates, documents and data in maritime traffic by a unique interface for formalities in maritime transport between the ship and the competent state administration bodies, between the state administration bodies among themselves and the international exchange of information.

The Regulation provides definitions of terms that are crucial for the implementation of the Regulation itself in practice. It should be noted that there is an inconsistency in the definition of some of these terms, starting with the term ship itself. The definition of a ship in the

Regulation differs significantly from that contained in Directive 2010/65/EU. According to the Regulation, a ship is considered to be any maritime craft to which the official application procedure applies, which leads to the conclusion that not only waterborne crafts but also floating facilities and fixed offshore facilities are included in accordance with the definition of a maritime craft under the Maritime Code. According to Article 5 paragraph 1 point 2 of the Maritime Code maritime craft is a craft intended for navigation at sea (waterborne craft) or a craft permanently moored or anchored at sea (floating facility), i.e. an object entirely or partially embedded into the seabed or positioned onto the seabed (fixed offshore facility). In the second part of the definition, the Regulation went a step further and eliminated any doubts as to the status of warships, public ships and research ships, as it was expressly designated that they fall within the scope of the Regulation. This solution seems right because it monitors the entities of the single window. Unlike the Regulation, the Ordinance on Certificates does not contain a definition of a ship at all, but defines what should be considered a ship at anchorage.

The Regulation adopted a new term that is not contained in Directive 2010/65/EU or in the Ordinance on Certificates, which is a data provider. The data provider is the authorized representative of the ship, the master, the other person authorized by the ship owner, the maritime agent, the cargo representative, the organizer of maritime transport, as well as other natural or legal person who is obliged to submit certificates, documents and data in maritime transport in accordance with special regulations. The providers of the information include the organizer of maritime transport without further clarification on whose behalf and for whose account that person works. It is a term that is not covered by other maritime regulations. Therefore, the authors consider that it would be advisable to provide a definition in the Regulation itself or in the Ordinance on Certificates.³ The regulation stipulates that the Single Interface links SafeSeaNet, e-Customs and other information systems. This fulfils the obligation laid down in Article 5 (1) of Directive 2010/65/EU.

Article 4 (2) of the Regulation defines single window entities, which are the central bodies of state administration which, within their scope have established competences for offshore activities. These are state administration bodies competent for: customs control, sanitary inspection, fisheries, veterinary, phytosanitary inspection, internal affairs, environmental protection and protection of nature, defence, foreign affairs, official statistics, general administration, culture, science and economy.

³ According to Combined Transport Act (Official Gazette of the Republic of Croatia No. 120/2016) contains a similar term, which is a "transport organizer" which represents a logistics service provider, i.e. a legal or natural person registered and specialized in the provision of complete transport, handling and warehousing services that is organized by combined transport (Art. 3 (1) (4).

In order to achieve and maintain interoperability, compatibility and harmonization in the receipt, delivery and exchange of certificates, documents and data with a unique interface between data providers and competent state administration bodies, among state administration bodies and international data exchange, the Regulation provides for the establishment of a separate body, namely Interdepartmental Normative and Technical Committee that is responsible, *inter alia*, for establishing and maintaining a Catalogue of certificates, documents and data to be submitted and exchanged through a single window.

The Directive 2010/65 / EU has required of each Member State to take measures to ensure that the application for the formal application procedure is submitted in an aligned and coordinated manner. Croatia has fulfilled this by the establishment of the Interdepartmental Normative and Technical Committee and the allocation of duties to the entities of the single window.

The specific contribution of this Regulation is recognized in the ability to cooperate and exchange information with other Member States through the SafeSeaNet system.

4.2 Ordinance on certificates, documents and data on maritime traffic, and on delivery, collection and exchange, and on the method and conditions of granting approval for free pratique

Ordinance on certificates, documents and data on maritime traffic, and on delivery, collection and exchange, and on the method and conditions of granting approval for free pratique (hereinafter: Ordinance on certificates, documents and data on maritime traffic) [7] was brought on 05th June 2013. It has transposed the European Union directives into the Croatian legal system and those directives are significant for the establishment of a navigation control system and an information system for reporting vessels. Those are: Directive 98/41/EU, Directive 2002/59/EU, Directive 2009/16/EU and Directive 2010/65/EU. Ordinance on certificates, documents and data on maritime traffic stipulates which certificates, documents and data on maritime traffic in national and international navigation shall be submitted by the ships on arrival or departure and during the stay of the ship in port. It also sets the conditions and manner of delivery, collection and exchange of certificates, documents and data on maritime traffic in conventional and electronic form, and the method and conditions of issuing approvals for free pratique, or approval for ship leaving port. The Ordinance introduces the Croatian Integrated Maritime Information System (CIMIS) ensuring the e-activities in arrivals and departures of ships between system users in the Republic of Croatia and the exchange of data with the SafeSeaNet system. As stated in Article 43, paragraph 1 of the Ordinance, CIMIS is an integral part of the SafeSeaNet system.

The time limits laid down in Article 4 (3) of the Ordinance on certificates, documents and data on maritime traffic are fully consistent with the rule laid down in Directive 2002/59/EC.

The Ordinance was changed on two occasions. The changes made in 2015 are aimed at defining the conditions and official procedure for the registration of passenger ships that maintain a recognizable agenda for navigation. The changes made in 2017 extended the scope of the Ordinance and included yachts in international navigation having 45 meters in length and over. The scope of persons referring to yachts, who are required to apply the provisions of the Ordinance includes not only the owner of the yacht and the charter company, but also the master of the yacht and the naval agent, unless otherwise provided in the provisions of the Ordinance.

The Ordinance on Certificates did not scrupulously elaborate on the issue of submission of information on dangerous goods or pollutants, but referred to the application of special official reporting procedures governing the handling of dangerous goods in maritime transport.⁴ Special official reporting procedures include reporting ballast waters, reporting security data, reporting waste and cargo residues, and extended inspection. Each of these procedures is performed according to special official reporting procedures governing the subject matter. Such a solution can be criticized as it leads to the dispersion of provisions in several legal regulations, which hinders the application itself, but also makes difficult the future adjustments caused by changes to the basic regulations, as it will consequently require the changes of the special regulations. On the other hand, referring to special regulations avoids repeating the provisions contained in a certain special regulation in the Ordinance itself referring to defining the conditions of acceptance and departure of ships to / from ports.

The Ordinance on Certificates has specified the national competent authority (hereinafter: the NCA) is the body that establishes and maintains the national SafeSeaNet information system which is the authority of the Ministry, competent for navigation safety. In doing so, Croatia fulfilled the obligation laid down in Article 22 of Directive 2002/59/EC.

4.3 Ordinance on inspection of navigation safety

The Ordinance on certificates, documents and data on maritime transport contains provisions on special official procedures for reporting a ship. One of them is an extended inspection. A ship available for extended inspection shall notify the harbourmaster's office of its arrival at port or anchorage at least 72 hours before the estimated time of arrival (ETA) or at the latest upon leaving the previous port if the navigation lasts less than 72 hours (Article 13, paragraph 3 of the Ordinance). Ordinance on certificates, documents and data on maritime traffic further specifies

⁴ Here we have the Ordinance on the handling of dangerous goods, the conditions and method of transport in maritime traffic, loading and unloading of dangerous goods, bulk and other cargo in ports, and the method of preventing the spreading of oil spills in ports, Official Gazette No. 51/05, 127/10, 34/13, 88/13, 79/15, 53/16, 41/17.

what must be reported at the arrival for this group of ships. Ordinance on inspection of navigation safety stipulates which ships are subject to extended inspection. [8] In accordance with Article 62, the rules are: a) high-risk ships, passenger ships, oil tankers, gas tankers, chemical tankers and bulk carriers, ships over 12 years of age, b) high-risk ships or passenger ships, oil tankers, gas tankers, chemical tankers and bulk carriers over 12 years of age, in the event of decisive and unforeseen factors; c) ships that are subject to re-inspection due to the measure issued refusing their entry into port.

4.4 The Ordinance on the handling of dangerous goods, the conditions and method of transport in maritime traffic, loading and unloading of dangerous goods, bulk and other cargo in ports, and the method of preventing the spreading of oil spills in ports

A ship carrying or intending to transport dangerous or pollutants, wood cargo on deck or solid bulk cargoes on national or international voyages must submit to the harbourmaster's office and the authority managing the port the relevant information, documents and certificates in accordance with the Ordinance on the handling of dangerous goods, the conditions and method of transport in maritime traffic, loading and unloading of dangerous goods, bulk and other cargo in ports, and the method of preventing the spreading of oil spills in ports [9], as well as the information contained in IMO FAL Form 7. In accordance with Article 14, paragraph 3 of the Ordinance on certificates, documents and data on maritime traffic, and on delivery, collection and exchange, and on the method and conditions of granting approval for free pratique, the port managing authority shall deliver the data, documents and certificates on the transport of harmful or polluting substances to the harbourmaster's office.

5 Conclusion

In order to simplify and reduce the necessary documentation for the arrival of a ship in port and the departure of a ship from the port, in 1965, the International Maritime Organization brought the Convention on the Facilitation of International Maritime Traffic. In order to facilitate the exchange of information between Member States, the IMO has prescribed seven standardized FAL forms to be used by all Member States, in order to ensure the successful implementation and uniform treatment of whichever ports of call, there have been published standards and recommended practices on procedures to be followed for the arrival, stay and departure of the ship, crew, passengers, baggage and cargo.

The mandatory electronic information exchange systems between ships and ports with effect from April 2019 marks a significant step in the maritime industry and ports towards the digital maritime world, leading to reducing the administrative burdens for maritime transport regarding ar-

rival and departure of ships. Directive 2010/65/EU contains measures making the electronic transmission of information standard and by rationalizing reporting formalities on arrivals and departures of ships at European Union level. As the implementation of Directive 2010/65/EU has identified some deficiencies and insufficiently uniform application at a certain Member State level, in 2019, there was adopted Regulation (EU) 2019/1239 establishing a European Maritime Single Window environment and repealing Directive 2010/65/EU. Regulation 2019/1239 shall apply from 15th August 2025. Since it has direct application in the Member States, all Member States will have to implement it in their national legal system. The activities of the Republic of Croatia aimed at reducing the administrative burdens imposed on ships in international and national navigation and establishing a European Maritime Single Window have been achieved through the adoption of the Ordinance on certificates, documents and data on maritime traffic, and on delivery, collection and exchange, and on the method and conditions of granting approval for free pratique and the Regulation on a single window for formalities in maritime transport. Those implementing acts primarily transpose the requirements of Directive 2010/65/EU, but also of Directive 2002/59/EC and Directive 2009/16/EC into the Croatian legal system. The authors conclude that the Croatian legal framework is in line with European standards, leaving the implementation of Regulation (EU) 2019/1239 into the national legal system by 2025. As a state and contracting party to the IMO FAL Convention, the Republic of Croatia is obliged to monitor the work of the Facilitation Committee and to transpose future amendments and supplements to the FAL Convention into the relevant legislative or by-law act. It is important to emphasize that changing or supplementing an individual FAL form may lead to the need to amend not only one, but several regulations, among which are certainly the ordinance on handling dangerous cargo, the ordinance on order in port, and the ordinance on the procedure for accepting and dispatching a ship to/from port.

References

- [1] Advance Cargo Information (ACI) Implementation Guidelines, <http://www.wcoomd.org>.
- [2] Convention on Facilitation of International Maritime Traffic, International Agreements – Official Gazette of the Republic of Croatia No. 1/92.
- [3] Combined Transport Act, Official Gazette of the Republic of Croatia No. 120/2016.
- [4] The Communication from the Commission regarding strategic goals and recommendations for the EU's maritime transport policy which promotes safe and efficient maritime traffic, COM (2009) 0008.
- [5] The Communication and action plan with a view to establishing a European maritime transport space without barriers, COM (2009) 0010.
- [6] Directive 2010/65/EU of the European Parliament and of the Council of 20 October 2010 on reporting formalities for ships arriving in and/or departing from ports of the

- Member States and repealing Directive 2002/6/EC, OJ L 283, 29.10.2013., www.eur-lex.europa.eu.
- [7] Ordinance on certificates, documents and data on maritime traffic, and on their delivery, collection and exchange, and on the method and conditions of granting approval for free pratique, Official Gazette of the Republic of Croatia No. 70/13, 55/15.
- [8] The Ordinance on the handling of dangerous goods, the conditions and method of transport in maritime traffic, loading and unloading of dangerous goods, bulk and other cargo in ports, and the method of preventing the spreading of oil spills in ports, Official Gazette of the Republic of Croatia No. 51/05, 127/10, 34/13, 88/13, 79/15, 53/16, 41/17.
- [9] Ordinance on inspection of navigation safety, Official Gazette of the Republic of Croatia No. 39/11, 112/14, 33/15, 86/15, 29/16.
- [10] Regulation on the single window for formalities in maritime transport, Official Gazette of the Republic of Croatia No. 119/15.
- [11] Regulation (EU) 2019/1239 of the European Parliament and the Council on establishing a European Maritime Single Window environment and repealing Directive 2010/65/EU, OJ L 198, 25.7.2019, p. 64–87, www.eur-lex.europa.eu.
- [12] Report from the Commission to the European Parliament and the Council on the functioning of Directive 2010/65/EU on reporting formalities for ships arriving in and/or departing from ports of the Member States, COM (2014) 320 final, Bruxelles, 25.6.2014.
- [13] Rukavina, B., Rak, L., Buneta, S., **Legal framework for establishing a single maritime transport space without barriers**, Pomorski zbornik, No. 52, 2016, pp. 165–182.