

University of Piraeus



Department of Maritime Studies
Master of Shipping Management

**“IMPLEMENTATION OF THE MARITIME LABOUR
CONVENTION 2006 ON CARGO AND PASSENGER
COASTAL VESSELS THAT FLY THE GREEK FLAG,
WITH EMPHASIS ON SEAFARERS’ EMPLOYMENT
AGREEMENT, PAYMENT OF WAGES AND HOURS OF
WORK AND REST ISSUES”**

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Dissertation

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degree of Master of Shipping Management**

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The approval of the thesis by the Department of Maritime Studies of the University of Piraeus does not imply acceptance of the author's opinions.

.....

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*I dedicate this dissertation to my husband
Charis and to my daughters Vasiliki and
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ABBREVIATIONS

1. **I.L.O.:** International Labour Organization
2. **U.Ns.:** United Nations
3. **J.M.C.:** Joint Maritime Commission
4. **H.L.T.W.G.:** High Level Tripartite Working Group
5. **P.T.M.C.:** Preparatory Technical Maritime Conference
6. **F.O.C.:** Flag of convenience
7. **M.L.C.:** Maritime Labour Convention
8. **Convention:** the M.L.C. 2006
9. **F.A.Q.:** Frequently Asked Questions
10. **I.M.O. :** International Maritime Organization
11. **S.O.L.A.S.:** Safety of Life at Sea Convention 1974
12. **S.T.C.W.:** Standards of Training, Certification and watch keeping for seafarers Convention 1978
13. **MAR.POL:** Maritime Pollution Convention. The International Convention for the Prevention of Pollution from Ships 1973/1978
14. **I.S.P.S. Code :** International Ship and Port Facility Security Code 2004
15. **G.T. :** Gross tonnage
16. **S.E.A. :** Seafarer Employment Agreement
17. **C.B.A.:** Collective Bargaining Agreement

ΠΕΡΙΛΗΨΗ

Στόχος της παρούσης διπλωματικής εργασίας είναι η εξοικείωση του αναγνώστη με τη Διεθνή Σύμβαση Ναυτικής Εργασίας 2006, τον τρόπο με τον οποίο αυτή εφαρμόζεται σε υπό ελληνική σημαία φορτηγά και επιβατηγά πλοία ακτοπλοΐας στο πεδίο των συμβάσεων εργασίας, μισθών και ωρών εργασίας και ανάπαυσης καθώς και τον βαθμό αποτελεσματικότητάς της.

Στο πλαίσιο αυτό αναλύεται ο τρόπος με τον οποίο διεξάγεται από τις τοπικές Λιμενικές Αρχές μία σχετική επιθεώρηση επί πλοίου με σκοπό να δοθεί έμφαση στην πολυπλοκότητα της διαδικασίας, στις συνήθεις μορφές μη συμμόρφωσης και στους λόγους για τους οποίους συνεχίζουν να υφίστανται. Η εργασία ολοκληρώνεται με την παρουσίαση σκέψεων επί του θετικού αντίκτυπου της Σύμβασης αλλά και προβληματισμών ως προς την μη ολοκληρωμένη αποτελεσματικότητα αυτής ενώ ταυτόχρονα προτείνονται τρόποι για αποδοτικότερη εφαρμογή των ευεργετικών για τους ναυτικούς διατάξεων της Διεθνούς Σύμβασης Ναυτικής Εργασίας.

Η μεθοδολογία της έρευνάς μου βασίζεται τόσο σε δευτερογενείς πηγές πληροφοριών όπως ελληνική και ξένη βιβλιογραφία, ξένη αρθρογραφία δημοσιευμένη στο διαδίκτυο, ελληνικές και ξένες ιστοσελίδες, όσο και σε πρωτογενείς πηγές, ήτοι εθνική νομοθεσία και διεθνή ναυτιλιακά πρότυπα καθώς και υλικό από διεξαχθείσες από εμένα σχετικές επιθεωρήσεις.

Με τη διεξαχθείσα έρευνα συμπεράνα ότι οι διατάξεις της Σύμβασης καίτοι ευεργετικές, τα αποτελέσματα της εφαρμογής τους είναι κατώτερα των προσδοκιών για λόγους που δεν άπτονται τόσο του περιεχομένου των διατάξεων αλλά σχετίζονται με βαθύτερα αίτια μεταξύ των οποίων οι οικονομικές συνθήκες που βιώνει η ελληνική κοινωνία, ο βαθμός εξοικείωσης των ναυτικών με τα εργασιακά και ναυτιλιακά νομοθετικά πρότυπα καθώς και η επικρατούσα στο χώρο της ελληνικής εμπορικής ναυτιλίας κουλτούρα. Τα περιθώρια βελτίωσης είναι εμφανή και η λήψη κατάλληλων μέτρων επιβεβλημένη.

ΛΕΞΕΙΣ ΚΛΕΙΔΙΑ

Σύμβαση Ναυτικής Εργασίας 2006, ναυτικοί, συνθήκες εργασίας, σύμβαση εργασίας, μισθοί, ώρες εργασίας και ανάπαυσης, Λιμενική Αρχή, επιθεώρηση.

ABSTRACT

The aim of this dissertation is to acquaint the reader with the International Maritime Labor Convention 2006, the way in which it is applied to cargo and passenger coastal ships with Greek flag in the field of the employment agreements, wages and hours of work and rest and its degree of effectiveness.

In this context, the manner in which a relevant on-board inspection is carried out by the local Port Authority is analyzed in order to emphasize the complexity of the process, the usual cases of non-compliance and the reasons why they continue to exist. My thesis concludes with the presentation of thoughts on the positive impact of the Convention but also of concerns regarding its incomplete effectiveness while at the same time ways are proposed for more efficient implementation of the provisions of the M.L.C. 2006 that are beneficial for seafarers.

The methodology of my research is based on both secondary sources of information such as Greek and foreign literature, foreign articles published on the internet, Greek and foreign websites, national legislation and international maritime standards as well as primary sources, namely the concentrated material from relevant inspections conducted by me.

The research concluded that the provisions of the Convention, although beneficial, the results of their implementation are below expectations for reasons that do not relate so much to the content of the provisions but are related to deeper causes including the economic conditions experienced by Greek society, the degree of familiarization of seafarers with labour and maritime legal standards as well as the prevailing culture in the field of Greek merchant shipping. The margins for further improvement are obvious and the taking of appropriate measures is imposed.

KEYWORDS

M.L.C. 2006, seafarers, conditions of employment, seafarers' employment agreements, wages, hours of work and rest, Port Authority, inspection.

INTRODUCTION

In a world that is constantly changing and driven by the uncontrollable power of globalization and of technological progress, the development of the shipping industry is at the center of the evolution and is emerging as a global trend in maritime communication between production and consumption centers all over the world. The major freight hubs on which the world economy is based call on shipping to meet their need for the smooth transport of goods and raw materials from their point of origin to their final destination as quickly and safely as possible. Shipping and the global economy are interdependent. Shipping flourishes when the world economy also blooms, but for its further consolidation and development it needs means of immediate service which shipping offers generously. This creates a chain of interdependent forces with the direct protagonists being the centers of production and consumption, the global merchant fleet, the ship-owning companies and the indirect protagonists the crews and the states with the latter acting as regulators forces that enforce the legal framework of global economic development.

The development of the global shipping relies not only on capital as a key driver but also on the safety of human life at sea, the protection of property and the protection of the marine environment. It also relies on security by illegal actions. The SOLAS 1974, the MARPOL 1973/1978, the S.T.CW 1978 and the I.S.P.S. Code are the international legal standards the enforcement of which ensures that these needs are met in a satisfactory degree.

Nevertheless these weren't enough. There was one more need to be covered: The crews' need to feel satisfied and healthy. Despite the fact that the I.L.O. since its inception had already adopted a number of standards for the improvement of seafarers' working and living conditions, at the beginning of the 21st century it was apparent the need for an international standard which would consolidate the scattered regulations in one place and which would be characterized by the clarity of the provisions and the ease of its adoption and implementation establishing a level playing field for all the protagonists of the

shipping world. The result was the adoption by the I.L.O. of the Maritime Labour Convention 2006.

Like any country with a dominant role in the field of shipping, Greece hastened to adopt and apply to the ships flying the Greek flag the requirements of the new Convention, consistently serving its commitment to safeguarding the rights of seafarers and improving their work conditions updating its institutional framework to keep pace with new maritime labor standards and requirements arising from the consolidation of the new Convention worldwide.

However, despite the innovative features of the M.L.C and the strictness and completeness of its provisions, the existence of serious incidents of working and financial exploitation of the seafarers working in Greek cargo and passenger coastal ships that make domestic voyages remains unaffected to a great degree and this fact drove me to select this issue as subject of my thesis.

So, the way in which this adoption and implementation takes place in our country, the effectiveness of it to the improvement of seafarers' employment conditions and thoughts for further improvement will be analyzed in the following pages.

In this context, the role of the I.L.O. in the field of labour, its contribution to the protection of seafarers' labor rights by establishing a system of international regulations and the reasons that led to the adoption of the 2006 Maritime Labor Convention are first examined. It follows a presentation of the M.L.C. 2006 so that the reader can comprehend its basic principles, its structure, its purpose, its innovative features and in general its positive impact in the field of shipping. The third chapter presents the way in which M.L.C. 2006 was adopted by our country, incorporated into Greek law and implemented in Greek cargo and passenger coastal ships while in the fourth chapter the reader is given the opportunity to learn basic details of how an audit of the implementation of the M.L.C. 2006 is carried out by the Port Authorities of our country on cargo and passenger coastal ships with emphasis on employment agreements, wages and hours of work and rest. The dissertation concludes with the fifth chapter, which presents thoughts on the changes brought about by the implementation of the new Convention in the working environment of seafarers on board, while at the

same time measures that could contribute to the more effective implementation of the M.L.C. 2006 are proposed.

In order to carry out my thesis and as far as is concerned the history and the role of the I.L.O. in consolidating labour standards, the reasons that led to the M.L.C. 2006, its structure, its content and its positive impact i considered it necessary to use as a source of information important Greek and foreign bibliography as well as extensive articles published on international and national sites. Regarding the manner of incorporation in national law and implementation of the Convention in the domestic merchant shipping, I considered as the most important source of information the Law of adoption of the Convention and the Regulations issued by its authorization as well as any other relevant national legislation regulating the work of Greek seafarers. The fourth chapter is based on the inspections conducted or managed by myself as officer of the Hellenic Coast Guard and finally the fifth chapter is the result of the experience I have obtained by the relative inspections and the relative interviews with seafarers conducted by me.

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CHAPTER 1: THE INTERNATIONAL LABOUR ORGANIZATION

1.1. THE ESTABLISHMENT OF THE INTERNATIONAL LABOUR ORGANIZATION¹

The International Labour Organization (ILO) has been characterized as the United Nations' agency dedicated to the labour sector. Its unique and permanent goal is the continual improvement of working conditions worldwide and it achieves this goal with the development of international labour standards for the protection of most important fundamental and working rights, the assurance of decent employment opportunities, the enhancement of social protection and the promoting of dialogue on work-related issues.² A special characteristic is its tripartite structure. In its Governing Body can participate representatives of governments and of employers and workers' organizations³ and in this way is promoted the development of social dialogue in all levels.

The I.L.O. was created in 1919, as part of the Treaty of Versailles⁴ (part xiii of the Peace of Treaty) signed in the end of the World War I and it was based to the belief that **universal and lasting peace presupposes social justice**. The Constitution of I.L.O. was drafted in early 1919 by the Labour Commission, chaired by Samuel Gompers, head of the American Federation of Labour (AFL) in the United States and resulted in a tripartite organization, the only one of its kind.

1.1.1. *THE EARLY YEARS*⁵

The ILO was settled to Geneva in 1920, with France's Albert Thomas being its first Director while the first standards that adopted covered key issues, including

¹ https://ec.europa.eu/knowledge4policy/organisation/ilo-international-labour-organisation_en

² https://ec.europa.eu/knowledge4policy/organisation/ilo-international-labour-organisation_en

³ By Janine Berg and David Kucera 2008 "In Defense of Labour Market Institutions. Cultivating justice in the developing World" .

⁴Part XII Section I with the Title "Organization of Labour" of the Peace of Treaty

⁵ <https://www.ilo.org/global/about-the-ilo/history/lang--en/index.htm>

hours of work, unemployment, maternity protection, night work for women, minimum age, night work of young persons and they were the following:

“Hours of Work Convention” 1919 (No 1)

“Unemployment Convention” 1919 (No 2)

“Maternity Protection Convention” 1919 (No 3)

“Night Work (Women) Convention” 1919 (No 4)

“Minimum Age (Industry) Convention” 1919 (No 5)

“Night Work of Young Persons (Industry) Convention”, 1919 (No 6)

“Minimum Age (Sea) Convention” 1920, (No 7)

“Unemployment Indemnity (Shipwreck) Convention” 1920 No (08)

“Placing of Seamen Convention”, 1920 (09)

1.1.2 *THE DRIVING FORCES*⁶

The driving forces that led to the creation of the ILO and which had arisen from a variety of factors such as security, humanitarian, political and economic reasons were:

-The historical -exploitation of the workers in the industrializing nations all over the world,

-The increasing world’s economic interdependence,

-The need for cooperation that would lead to the adoption of similar working conditions by the countries competing the one another for markets,

and they led the founders of the ILO to recognize the importance of social justice in securing peace.

⁶ <https://www.ilo.org/global/about-the-ilo/history/lang--en/index.htm>

Hence, the Part XII Section I with the Title “Organization of Labour” of the Peace of Treaty defines that:

“-**Whereas** the League of Nations has for its object the establishment of universal peace, and such a peace can be established, only if it is based upon social justice,

-**whereas** conditions of labour exist involving such injustice, hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperiled and an improvement of those conditions is urgently required : as, for example, by the regulation of the hours of work, the provision of an adequate living wage, the protection of the worker against sickness, recognition of the principle of freedom of association.....and other measures,

-**whereas** the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries,

The high Contracting Parties, moved by sentiments of justice and humanity as well as by the desire to secure the permanent peace of the world, agree to the following “.....A permanent organization is hereby established for the promotion of the objects set forth in the Preamble..... ”.

It is apparent that the establishment of the I.L.O. and the designation of its functions with the Treaty of Peace 1919 set the foundation for the protection and the further improvement of some of the most important fundamental and employment-social rights like:^{7 8}

- The freedom of association and the protection of children,
- The hours of work, with the establishment of maximum working days and weeks,
- The regulation of the labour supply,
- The prevention of unemployment,
- The provision of an adequate living wage,

⁷ <https://www.ilo.org/global/about-the-ilo/history/lang--en/index.htm>

⁸ Sandrine Kott 2019 “I.L.O. Social Justice in a global world? A history in tension”.

- The protection of the worker against sickness, disease and injury arising out of his employment,
- The provision for old age and injury,
- The protection of the interests of workers when employed in countries other than their own,
- The organization of vocational and technical education and other measures.

1.2 STRATEGIC OBJECTIVES OF THE I.L.O FOR DECENT WORKING AND LIVING ENVIRONMENT.⁹

With the above areas of improvement listed in the Preamble of I.L.O's constitution the mission of the I.L.O. is from the beginning declared with clarity and it is characterized by its attentiveness to promote social justice and the globally recognized human and labour rights.

According to I.L.O., social justice is essential to universal and lasting peace. The ILO, based on its tripartite structural form, manages to bring together governments, employers and workers representatives in a tripartite base with main goal to bring forward new labour standards, adopt policies and programs that will ensure decent work for all human beings.

1.2.1 THE I.L.O.'S DECENT WORK AGENDA¹⁰

As decent work it could be characterized the work that respects the workers and it confronts them as an entity deserving to be physically and mentally protected by any form of action that could offend his/her personality. Decent work is the work that comprehends the fundamental and working rights of employees as a presupposition in the exercise of their employment.

⁹ <https://www.ilo.org/global/about-the-ilo/mission-and-objectives/lang--en/index.htm>/Mission and Impact of I.L.O.

¹⁰ <https://www.ilo.org/global/topics/decent-work/lang--en/index.htm>/The I.L.O's Decent Work Agenda

The basic elements of a decent work that consist the four pillars of each Decent Work Agenda are the following ones¹¹:

- The provision of job in a way that no one should be deprived of a desired work due to the fact of unemployment.
- The assurance of basic working rights like minimum level of wages, hours of work and rest, days off, no kind of discrimination,
- The provision of social protection for all the workers that ensures for them a safe working environment with access to benefits like healthcare, pension, and parental leave,
- The establishment of social dialogue – with the intervention of the labour unions so as workers can negotiate their workplace conditions.

According to the I.L.O. decent work means: “opportunities for productive work which ensures a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration, freedom for people to express their concerns, organize and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men.”

The ILO’s Decent Work Agenda, based on these four pillars, involves- among others- goals for creation of new jobs, protection of working rights, promotion of gender equality, social protection and social dialogue and it contributes to the development of the adequate economic conditions and dignified working ones which will lead, in favor of the workers, in prosperity, progress and lasting peace helping the workforce to feel satisfied and commendable individuals within their society.¹²

¹¹ [https://apwld./decent-work-and-living-wage-campaign/Campaign for DECENT Work and living Wages](https://apwld./decent-work-and-living-wage-campaign/Campaign%20for%20DECENT%20Work%20and%20living%20Wages)

¹² <https://www.ilo.org/global/topics/decent-work/lang--en/index.htm>: “**Decent work - ILO policy impact:** Decent work has become a universal objective and has been included in major human rights declarations, UN Resolutions and outcome documents from major conferences including Article 23 of the Universal Declaration of Human Rights (1948), the World Summit for Social Development (1995), World Summit Outcome Document (2005), the high level segment of ECOSOC (2006), the Second United Nations Decade for the Eradication of Poverty (2008-2017), Conference on Sustainable Development (2011) and in the UN’s 2030 Agenda for Sustainable Development (2015). ”

1.2.2. FOUR STRATEGIC OBJECTIVES OF THE DECENT WORK AGENDA^{13, 14}

The Declaration on Social Justice for a Fair Globalization¹⁵ was unanimously adopted by the I.L.O on 10 June 2008 and constitutes the third set of I.L.O.'s principles since its constitution in 1919 after the Philadelphia Declaration of 1944 and the Declaration on Fundamental Principles and Rights at Work of 1998. It reflects the I.L.O.'s contemporary vision in the era of globalization. It is a powerful reaffirmation of ILO values and ILO's one more instrument for achieving progress and social justice in the context of globalization. The Declaration sets four strategic objectives for the promotion of decent work:

1. Promote employment

The first objective is the promotion of employment with the development of better opportunities for women and men to have access in decent employment and income.

The working environment wherein workers employ is a sustainable institutional and economic environment in which:

- Employees have the opportunity to develop their capacities, obtain and use high professional skills so as to offer increased productive employment and feel personal fulfillment and satisfaction.
- In which all enterprises can experience progress and thereafter generate more employment and income opportunities for all and
- Societies make economic and social progress and set better living standards.

¹³ <https://www.ilo.org/global/about-the-ilo/mission-and-objectives/lang--en/index.htm>

¹⁴ Alina Larion "Major objectives of decent work ILO". Volume 2 2013.

¹⁵ <https://www.socialprotection.org/> ILO's Declaration on Social Justice for a Fair Globalization

Given the fact that the economic development is just a prerequisite for better and more jobs, I.L.O. adopts policies and programs that target to enhance the vital role of the companies not only in job generation but in the sustainability and welfare too. Promotion of the employment doesn't mean only more jobs and income opportunities but higher quality within the working environment where discrimination, inequality and unfairness have given their place to gender-sensitive and employee oriented management attitudes, with better qualified and skillful workforce.

2 Develop measures of social protection – social security and labour protection- which are sustainable and adapted to national circumstances like:

- The assurance of social security to all the employees, including measures for the provision of basic income to all,
- Healthy and safe working conditions and
- Fair policies in regard to wages and earnings, hours and other conditions of work.

According to the I.L.O. only 27 per cent of the world's population has adequate social security coverage and more than half lack any coverage at all!

This is enough for the ILO to assist these countries by actively taking measures of protection and of substantial improvement within the social protection sector so as to ensure access to health care and income security for all employees focusing at least on the basic needs such as coverage of work injuries and sicknesses, old age, maternity, unemployment or wages reduction.

3 Promote tripartism and social dialogue taking into account :

- The special needs of each country,
- The interdependency between economic development and social progress.
- The need of consensus among national and international policies on employment and

- The need for effective labour laws and good industrial and labour relation systems.

According to the I.L.O.¹⁶ social dialogue is the best mechanism in promoting better living and working conditions and social justice too. It is based on the fundamental rights of freedom of association and collective bargaining and it takes into account the basic characteristic of each country concerning the sectors of culture, history, economy and politics. It can takes various forms either as a tripartite process with the government the official party of the dialogue or as a bipartite process with development of connection only between labour and management or trade unions and employers' organizations with or without indirect involvement of government.

4. Respect and promote fundamental principles and rights at work which are of particular importance for the effective implementation of the strategic objectives like:

- The right of freedom of association and of collective bargaining

The four strategic objectives are inseparable, interdependent and mutual supportive. The progress of each of them depends on the degree of progress of the others and the failure to promote one of them would harm the others' advance. Their effective achievement depends on the way each member determines it, taking into account its international obligations and the fundamental principles and rights at work and also on the effective assistance offered by the I.L.O. to the members to enhance their efforts.

¹⁶ [https://www.ilo.org/public/english/dialogue/download/brochure.pdf/What is Social Dialogue](https://www.ilo.org/public/english/dialogue/download/brochure.pdf/What%20is%20Social%20Dialogue)

1.3. THE PROMOTION OF SOCIAL JUSTICE AND THE ROLE OF THE I.L.O TO THE PROTECTION OF HUMAN AND LABOUR RIGHTS WITH THE DEVELOPMENT OF A SYSTEM OF INTERNATIONAL LABOUR STANDARDS¹⁷

1.3.1. THE NEED FOR SOCIAL JUSTICE¹⁸

Social justice and human conditions of labour cannot be achieved while employees feel the need to struggle even more for better working conditions.¹⁹ Social justice means equal rights from an economic, political and social point of view and same opportunities for everyone. Social justice presupposes economic justice.

Nowadays, the need for social justice is even more urgent having due regard to the impact of the globalization on every aspect of our life. As far as is concerned the labour sector the consequences of the changes that brings the globalization are obvious and the need for intervention more necessary than ever.

It is uncontested that the globalization has a positive impact to the developing countries which now can benefit by the free trade and the access to new markets.²⁰ Globalization means more competitive companies, cheaper products and new jobs. A world power is gradually being created and decisions that are being taken are beneficial for people all over the world.

On the other side, it doesn't sounds irrational the opinion that globalization is not working for the majority of the world and that it has made the rich richer while making the non-rich poorer. Globalization equals to wealth but the basic questioning relates to the distribution of this wealth and its results. The goods of

¹⁷ <https://www.ilo.org/infostories/en-GB/Stories/The-ILO/Laying-the-Foundations-of-Social-Justice#social-justice>

¹⁸ <https://www.ilo.org/global/standards/introduction-to-international-labour-standards/need-for-social-justice/lang--en/index.htm>

¹⁹ <https://www.ilo.org/global/standards/introduction-to-international-labour-standards/need-for-social-justice/lang--en/index.htm>

²⁰ <https://www.forbes.com/sites/mikecollins/2015/05/06/the-pros-and-cons-of-globalization/#50fcf5c8ccce>

this prosperity should be tested by all people either rich or poor equally and the positive impact should include not only material benefits but spiritual too.²¹

Work is part of everyone's daily life and is crucial to a person's dignity, well-being and development as a human being. Economic development should include the creation of jobs and working conditions in which people can work in freedom, safety and dignity. In short, economic development is not undertaken for its own sake, but to improve the lives of human beings. There are a series of prevailing unsolved problems in labour markets such as the inequality among the genders, the persistent informality, low wages and scarce social security.

As a consequence, governments, along with all interested social partners, have sought to develop policies and programs that handle these challenges and overcome any obstacle.²² The International labour standards set by I.L.O reflect the efforts of the policy-makers focused on improving the life and ensure the human dignity.

1.3.2. THE DEVELOPMENT OF THE SYSTEM OF INTERNATIONAL LABOUR STANDARDS²³

International labour standards are the legal means with which the ILO's partners (governments, employers and workers) set out basic labour principles and rights. They consist of either international **Conventions (or Protocols)**, the compliance with which becomes obligatory when they are ratified by member states, or **Recommendations**, which operate mainly as a guideline instrument without members be obliged to apply them. In general, a Convention entails the basic principles that must be implemented by ratifying countries, while a Recommendation has a supplementary to the Convention role by providing useful guidelines and details of how a member could better apply a convention.

²¹ A. Alcock: "History of the International Labour Organization" 1971

²² Sandrine Cazes and Sher Verick "Perspectives on Labour Economics for Development" 2013

²³ <https://www.ioe-emp.org/policy-priorities/international-labour-standards>

The following conventions have been characterized by the I.L.O as the fundamental ones since they regulate the most substantial fundamental, working and social rights and principles:

1. Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)
2. Right to Organize and Collective Bargaining Convention, 1949 (No. 98)
3. Forced Labour Convention, 1930 (No. 29) (and its 2014 Protocol)
4. Abolition of Forced Labour Convention, 1957 (No. 105)
5. Minimum Age Convention, 1973 (No. 138)
6. Worst Forms of Child Labour Convention, 1999 (No. 182)
7. Equal Remuneration Convention, 1951 (No. 100)
8. Discrimination (Employment and Occupation) Convention, 1958 (No.

1.3.3. BENEFITS OF INTERNATIONAL LABOUR STANDARDS²⁴

The I.L.O. with the development of the system of appropriate international labour standards manages to address the challenges of globalization aiming to promote decent and productive working environment characterized by freedom, dignity and safety and calling the members to adopt and implement them.

Within this framework, the I.L.O. undertakes to cope with the arising challenges in a way that keeps the workforce protected and unaffected by the globalization's impact ensuring that the growth of global economy provides benefits to all focusing on the following issues:

²⁴ <https://www.ilo.org/global/standards/introduction-to-international-labour-standards/the-benefits-of-international-labour-standards/lang--en/index.htm/benefits-of-international-labour-standards>

1. Economic development and employment

In the Declaration of Philadelphia (1944), the international community recognized that “labour is not a commodity”. Work is not regarded only as a mean of survival but as a mean that ensures a dignified life, welfare, safety and permits people to set goals and dream a better future life for them and their families. Thus, economic development cannot be examined separately from the improvement of the human beings’ lives. Economic development shouldn’t mean financial profits only but an offer of jobs and decent working conditions.

In this point, I.L.O. intervenes with international labour standards to ensure that the economic development doesn’t move away from its task to improve the life of human beings.

2. The legal framework

Keeping globalization under control is unfeasible without a strong international legal framework. Trade, finance, social and environmental issues, human rights and labour interact with each other developing relations of interdependence and correlation among them that influence the pace with which the globalization spreads and domains all over the world. For keeping these forces in balance so as to avoid a potential conflict of interests and a potential harm of the decent working environment for the global workforce the development of a rigorous legal framework is unavoidable. Once again, the I.L.O with the elaboration, promotion and the regulation of appropriate legal standards contributes to the empowerment of this legal framework assuring that the economic forces don’t act without control.

3. A level playing field

A positive aftermath of the establishment of an international legal framework is the creation of a level playing field in the global economy that gives equal and

fair chance of succeeding to all. It prevents governments and employers of lowering labour standards which would mean low-wages, low-skill employment in favour of higher earnings for the world of industry. The adoption and implementation of the ILO'S international labour standards by the governments and the social partners set the foundation for the development of a strong level playing field in a way that these who do not support the implementation of them do not undermine the efforts of those who do.

4. A means of improving economic performance

The effective implementation of the international labour standards requires higher costs and therefore it could become harmful for the economic development. However, in long term this doesn't happen because of the fact that compliance with the international labour standards lead to improvements in productivity and thereafter better economic performance. The employees work in a protected and friendly working environment where important labour issues such minimum wage, work and rest hours, safety and protection, training, freedom of association, collective bargaining, provision of social protection have been successfully addressed with the implementation of the international labour standards. Under these improved working conditions workers feel satisfied and they can express greater performance. They are better trained and encouraged to undertake greater initiatives which result in higher workforce turnover balancing the costs of labour standards' implementation.

5. A safety net in times of economic crisis

The economy suffers by periodical cyclicity with alternation of periods of financial prosperity with periods of troughs and recessions or by random and sudden shocks that may lead even to bankruptcy. Even fast-growing economies can experience unforeseen economic downturns, but these challenges could be used as an excuse for unsound labour standards²⁵. The I.L.O. with its international labour standards contributes to the creation of a safety net that will

²⁵ Eric Gravel et al. 2014 "A Legal Perspective on the Role of International Labour Standards in Rebalancing Globalization".

protect workers in cases of economic crisis by ensuring for them reliable social protection systems, health insurance and effective policies that reduce the negative effects of the crisis.

6. A strategy for reducing poverty and informal economy

The engagement of a large part of the work force in the informal economy is a fact noticed mainly in many developing or transition economies where the workers stay unprotected by the state because of the lack of a functional legal framework that would ensure the existence of social justice. Each market for being efficient and fruitful must be based on a fair set of rules and institutions. Economic development without rules is unfeasible. The same rule applies to the labour market. International labour standards can be proved very effective tools setting out labour practices that ensure a fair labour market both for employees and employers too.

For example, some ILO standards deal with home workers, migrant and rural workers, and indigenous and tribal peoples, namely with areas of the informal economy while others reinforce the freedom of association, the social protection and the development of vocational training and in this way they contribute to the reduction of poverty and of the phenomenon of informal economy.

1.3.4. SUBJECTS COVERED BY THE INTERNATIONAL LABOUR STANDARDS²⁶

International labour standards respond to a great number of needs and challenges faced by workers and employers in the global economy. Thus, the subjects covered by international labour standards are the following:

²⁶ International Labour Office, 2019 “The Rules of the Game: An introduction to the standards related work of I.L.O.” 4th Edition chapt. 2 “Subjects covered by International Labour Standards”.

1.	Freedom of association, collective bargaining, and industrial relations
2.	Forced Labour
3	Elimination of child labour and protection of children and young persons
4	Equality of opportunity and treatment
5	Tripartite consultation
6.	Labour administration and inspection
7.	Employment policy and promotion
8.	Vocational guidance and training
9.	Employment security
10.	Wages
11.	Working time
11.1	Hours of work and rest
12	Occupational safety and health
13	Social security
14.	Maternity protection
15.	Social policy
16.	Migrant workers
17.	HIV and AIDS
18.	Seafarers
18.1.	General provisions
18.2.	Protection of children and young persons
18.3.	Vocational guidance and training
18.4.	Access to employment
18.5.	General conditions of employment
18.6.	Safety, health and welfare
18.7.	Security of employment
18.8.	Social security
18.9.	Inspections
19.	Fishers

20.	Dockworkers
21.	Indigenous and tribal people
22.	Specific categories of workers
23.	Final articles conventions
24.	Not yet classified

1.3.5. APPLYING AND PROMOTING THE INTERNATIONAL LABOUR STANDARDS²⁷

The implementation of the international labour standards by the countries that have ratified the conventions is controlled by a supervisory system which has been developed by the I.L.O. Articles 19 and 22 of the ILO Constitution provide for the member States' obligation to regularly report on measures they have taken to give effect to any provision of certain ratified conventions or recommendations, and to indicate any obstacles which have prevented or delayed the ratification of a particular convention. In this way the ILO can at regular intervals examines if there are any problems in the application of standards, so as to assist countries through social dialogue and technical assistance.

There are two kinds of supervisory mechanisms:

- The regular system of supervision which is based on the examination by the Committee of Experts of periodic reports submitted by Member States concerning the measures they have taken to implement the provisions of the ratified Conventions.
- Special procedures that include a representations procedure and a complaints procedure (for cases of serious non compliance) of general application, together with a special procedure for freedom of association.

²⁷ <https://www.social-protection.org/gimi/ShowWiki.action?wiki.wikild=191>: which are the supervisory mechanisms

The Committee of Experts which publishes a detailed annual General Survey on member States' national law and practice, on a subject chosen by the Governing Body. These surveys are based on the reports received from member states and on the information collected by employers' and workers' organizations and they help the Committee to analyze the effectiveness of the conventions and recommendations, the weak points and to invent ways of overcoming any obstacle and/or ineffectiveness.

An International Labour Conference's tripartite committee consisted of government representatives and of employers and seafarers' ones thoroughly examines the annual report of the Committee of experts which is submitted to this tripartite committee in June of each year. The conclusions are published in its General Report.

1.4. INTERNATIONAL LABOUR STANDARDS ON SEAFARERS²⁸

1.4.1. *THE CHALLENGES ON SEAFARERS' WORKING ENVIRONMENT*²⁹

The international maritime transportation industry facilitates almost 80% to 90% of global commodity trade and contributes to the development and wealth of a lot of nations all over the world.

Maritime transportation requires seafarers to operate the ships. Seafarers' role is therefore essential to international trade and the international economic system since with their work contribute to the receipt, transportation and delivery of raw, semi produced or manufactured goods even from the point of origin to the final destination in a direct, effective and safe way.

Seafarers perform an extremely demanding service with a variety of professional hazards and difficulties to deal with. They have to face dangers such as maritime terrorism and rough weather. They are called to perform their tasks under extremely difficult temperature and weather conditions which can provoke sea

²⁸ <https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/seafarers/lang--en/index.htm> International labour standards on seafarers

²⁹ <https://www.marineinsight.com/life-at-sea/5-problems-affecting-seafarers-today>

sickness making them to feel exhausted. Long and continuous exposure to direct sunlight or harsh weather while working on the deck or extremely high temperature and noisy environment in the engine room can lead to health complications.

Personal accidents during seafarers' task performance occur frequently even the strict international regulations for the safety of life at sea that are implemented. Frequent forms of accidents is the falling of people into the sea, falling onto the deck or on stairs, accidents in the engine room, or accidents caused by the use of hard equipment such as accidents caused by electric shock or by the winch mechanism used to handle the ropes.

Although shipping companies take all the care possible for their crew and provide them with the best of what is available, it is the condition of the sea, the harsh weather, the irregular because unpredictable factors working schedule and continuous working hours, which make seafarers' job and life on board ship difficult.

This job also causes psychological stress to seafarers. It requires by them to stay far from their families for a long period of time and in long distance from the shore in a working environment wherein the borders between working and personal space are indistinguishable.

1.4.2. THE I.L.O.'S ROLE

ILO has adopted over 70 instruments (41 Conventions and the related Recommendations) at special maritime sessions of the International Labour Conference with which it has established the minimum conditions for "decent work" and has addressed almost all aspects of work, including minimum requirements for work on a ship (such as minimum age, medical fitness, training and qualifications), provisions on conditions of employment, such as hours of work and rest, wages, shore leave, insurance and repatriation, accommodation, recreational facilities, food and catering, occupational safety and health protection, welfare and social security protection.

1.4.3. PREVIOUS AND CURRENT MARITIME I.L.O.'S INSTRUMENTS

The I.L.O, since its constitution, in order to address the aforementioned maritime challenges has adopted, amended, canceled or updated innumerable maritime instruments which testify its long term struggle to improve seafarers' working and living environment by regulating substantial labour issues as the following ones:

1. General provisions like the "National Seamen's Codes Recommendation", 1920 (No. 9), the "Merchant Shipping (Minimum Standards) Convention", 1976 (No. 147), the "Seafarers' Identity Documents Convention" (Revised), 2003, as amended (No. 185) and the "Maritime Labour Convention 2006".

2. Protection of children and young persons like the "Minimum Age" (Sea) Convention 1936 (No. 58) and the "Medical Examination of Young Persons" (Sea) Convention, 1921 (No. 16).

3. Vocational guidance and training with the "Vocational Training (Seafarers) Recommendation 1970 (No. 137) which replaced the one of 1946

4. Access to employment like the "Placing of Seamen Convention", 1920 (No 9), the "Officers' Competency Certificates Convention", 1936 (No. 53) and the "Recruitment and Placement of Seafarers Recommendation" 1996 (No. 186).

5. General conditions of employment like the "Hours of Work and Manning (Sea) Convention, 1936 (No. 57)", the "Repatriation of Seamen Convention, 1926 (No. 23) and the "Seafarers' Annual Leave with Pay Convention", 1976 (No. 146).

6. Safety, health and welfare from the old and outdated "Seamen's Welfare in Ports Recommendation", 1936 (No. 48) to the newer "Health Protection and Medical Care (Seafarers) Convention", 1987 (No. 164) (among many others).

7. Security of employment the "Continuity of Employment (Seafarers)" Convention 1976 (No. 145) and the relating Recommendation (No. 154)

8. Social security with one of the first Recommendations and Conventions on seafarers social security issues the "Unemployment insurance (seamen)

Recommendation” 1920 (No 10), and the “Ship-owners' Liability (Sick and Injured Seamen) Convention”, 1936 (No. 55).

9. Inspections with the up-to-date Labour Inspection (Seafarers) Convention, 1996 (No 178) and the related Recommendation, 1996 (No. 185)

1.5. REASONS THAT LED TO THE ADOPTION OF THE M.L.C. 2006

In February 2006, at the 10th Maritime Session, the 94th International Labour Conference adopted an important unified and cohesive new legal ILO instrument the Maritime Labour Convention, 2006 (MLC, 2006).

1.5.1. *THE BACKGROUND*³⁰.

In March 2004, the Governing Body of the International Labour Office (at the 286 Session) decided to examine the potential of the creation and adoption of an instrument which would gather in one place all maritime labour standards existed till that time. This wasn't the first time the Governing Body had set under discussion this issue. It could be said that the first step had been with the Geneva Accord (2001) between ship-owners and seafarers' representatives. This Accord had sprung from representatives' concern on the effectiveness of the standards which were in force that period in relation to the degree they could:

- protect seafarers' right to decent work,
- lead to a level playing field for governments and ship-owners.

The Joint Maritime Commission (JMC) proposed to the Governing Body to convene a Maritime Session of the Conference in 2005 with main goal to adopt a single instrument consolidating as much as possible of the existing maritime standards. Towards this goal, the Governing Body established, a High-level Tripartite Working Group on Maritime Labour Standards (HLTWG), whose first meeting took place in December 2001 where the Government representatives

³⁰ Report I1A, 2006 “Adoption of an instrument to consolidate labour standards” International Labour Conference, 94th maritime session.

fully supported the points set by the Ship-owners and Seafarers' representatives as better solutions.

A lot of long-term meetings of the HLTWG took place between 2001 and 2004 during which all the representatives had the opportunity to make written submissions/proposals on the various drafts of this new instrument.

The whole process resulted in a final draft that was submitted to the Preparatory Technical Maritime Conference (PTMC), which was held from 13 to 24 September 2004. The requests of the PTMC were approved and its actions endorsed by the Governing Body at its 291st Session (November 2004).

A Tripartite Intersessional Meeting took place from 21 to 27 April 2005. It was attended by 171 Government representatives from 69 countries, 44 Ship-owner representatives and 34 Seafarer representatives, as well as by experts from international organizations. This Intersessional Meeting, considered two documents prepared by the Office in response to the PTMC resolutions and all the proposals for amendment submitted to the PTMC. The report of the Intersessional Meeting was notified to all Members.

Thus, on February 23th 2006, at the 10th Maritime Session in Geneva, the 94th International Labour Conference adopted an important new legal instrument the Maritime Labour Convention, 2006 (MLC, 2006) that in its final form incorporates standards contained in 65 existing international maritime labour instruments (Conventions and Recommendations) adopted by the ILO since its constitution, as well as fundamental principles included in other international labour Conventions.

1.5.2. THE MAIN REASONS THAT LED TO THE ADOPTION OF THE M.L.C. 2006^{31, 32}

The basic reasons that led to the need for the development of the Maritime Labour Convention 2006 were the following:

Consolidation of ILO Maritime Standards

The serious concerns expressed in January 2001 by the representatives of Ship-owners and Seafarers wasn't the validity of the existing maritime labour standards which as a body of international law, they had been recognized as comprehensive and adequate. The main concern was that these standards didn't have a substantial positive impact on the working and living conditions experienced by seafarers. Many of the relevant Conventions dealt with a single issue, were enforced without being able to contemporary arrange vital working and living issues of seafarers' life on board the vessel.

In this regard, there was strong need for a single instrument that would consolidate as much as possible of the existing maritime labour standards.

The lack of provisions for decent work was a great disadvantage for the ship owners.

The lack of decent working conditions for many seafarers would create a potential economic disadvantage for ship owners committed to providing decent conditions of work for seafarers. Modern ship owners understood the importance to ensure good working conditions for seafarers working on board their vessels. They also knew that good working conditions meant that their ships would operate safely and securely with few problems and delays in the ports.

Lack of flexible mechanisms

Many of the Conventions had no flexible mechanisms to provide for rapid changes to their standards so as to keep pace with developments in the shipping industry. Even amendments of minor technical details presupposed costly

³¹ Report I1A 2006 "Adoption of an instrument to consolidate labour standards" International Labour Conference, 94th maritime session.

³² "Ship-owners benefits and responsibilities overview" . I.L.O's presentation

revision procedures and several years to enter into force for a significant number of ILO Members.

The complex nature of many labour standards

A lot of the preexisted standards were often difficult to understand and subsequently implement in a right way because of their complex, incomprehensible and overlapping provisions.

Lack of an effective enforcement and compliance system within the same framework with other existing international standards for the safety of life at sea and the protection of the environment

The ILO's numerous, but fragmented and disparate, maritime Conventions, despite the continuing validity of their substantive content, had significantly less impact than other widely applied maritime Conventions in the areas of safety at sea and protection of the marine environment. There was strong need for the development of an effective enforcement and compliance system which would contribute to the elimination of substandard ships and would work within the well-established international system for enforcement of the international standards for ship safety, security and environmental protection that had already been adopted by the I.M.O.

Crews of mixed nationality

The development of crews composed of mixed nationality members in a highly organized global network that link seafarers, ship owners, ship managers, crew managers and labour supplying agencies of various countries all over the world with different national regulations, laws, culture and mentality called for the existence of a consolidated convention that would regulate in a common way the rights and responsibilities of the multinational crews and the duties of all the other participants and which would be internationally accepted and ratified by the majority of the countries involved in the shipping industry.

Increased internationalization of ship registries and flags of convenience (F.O.C.)

The skyrocketing number of F.O.C. in recent years has- to some extent- been caused by the existence of weak points in maritime legal status. Ship-owners may select to register a ship in a foreign country which enables them to avoid the regulations of their country that might have stricter safety standards. Often, the option of a F.O.C. with more business friendly policies gives to ship-owners the opportunity to reduce operating costs, avoid higher taxes that are in force in their country and stay away from strict laws that protect the wages and working conditions of seafarers³³. Subsequently, the need of a convention with international force that would eliminate the bad consequences of the less-regulated flags was intense.

A need to provide a level playing field and avoid exploitation of workers

The new Convention should lead to a level playing field with the same set of rules for all the participants.

So, ship-owners of countries that already protect seafarers' rights in accordance with existing Conventions would have no or few additional substantial obligations under the new Convention and their ships would benefit from a certificate allowing them to avoid delays as a result of detailed port state inspections in normal cases.

They would have a certain protection against unfair competition from substandard ships, because of the principle of no more favorable treatment embodied in the Convention. This term means that each member shall implement its responsibilities under the new Convention in such a way as to ensure that ships that fly the flag of any state that would not ratify the new Convention to not receive more favorable treatment than the ships that fly the flag of any State that will ratify the convention.

³³ Ngozi Medani 2013 "Assessing the effectiveness and efficiency of the M.L.C. 2006: The right of seafarers to their wages".

Increased stress and complexity in the maritime work place

Seafarers work in extremely demanding and difficult working conditions and they undertake duties of high responsibility the excellent performance of which ensure the safety of the crew, the protection of the property and the sea pollution prevention. This high sense of responsibility that seafarers experience generates increased physical and psychological stress, which in conjunction with the complex and difficult nature of their work calls for the existence of a regulation that will ensure health and safety protection and accident prevention in a way that seafarers' work environment on board ships promotes occupational safety and health with access to social security protection.

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CHAPTER 2 THE MARITIME LABOUR CONVENTION 2006

2.1. SEAFARERS' WORKING AND LIVING ENVIRONMENT

2.1.1. *THE SEAFARER'S PROFESSION*

The whole work on board the vessel is conducted by the crew and the master who has a commanding role on the crew and the overall control of the ship in charge of the safety of the crew, the property and the sea environment. The master of the ship is mainly considered as the owner's representative and less as member of the crew. The crew consists of seafarers with different ranks and it is divided in departments each of which undertakes various responsibilities and carries out specific duties. So, the whole crew with the master is divided in the following categories:

- Captain

The master

- Deck Department consisted of:

Deck officers and deck ratings and deck cadets,

- Engine Department consisted of:

Engine officers, motormen, oilers, wipers and engine cadets,

- Electro technical Department (controlled by the Chief Engineer) consisted of:

Electrician officers and assistants

- Department of General Duties consisted of:

Chief Steward, stewards and the Cook personnel

The ranks of the captain and the crew are the following:

- Master
- Chief Mate (also called Chief Officer)
- Second Mate (also called Second Officer)
- Third Mate (also called Third Officer)
- Deck Cadet
- Chief Engineer
- Second Engineer
- Third Engineer
- Fourth Engineer
- Engine Cadet
- Electrician
- Boatswain (also called Bosun /Deck Foreman)
- Pump Man
- Able-Bodied Seaman (AB) (also called Quartermaster),
- Ordinary Seaman (OS)
- Fitter
- Oiler
- Wiper (Motorman)
- Chief Cook and Steward

2.1.2. SPECIFIC CHARACTERISTICS OF THE SEAFARING ENVIRONMENT³⁴

³⁵

Seafaring is a profession which draws on physical effort, skill, and intellectual power over a range of disciplines (by McLaughlin 2012). It is characterized by specific mental, psychosocial and physical stressors which cannot be compared with jobs ashore.

³⁴ <https://www.marineinsight.com/life-at-sea/5-problems-affecting-seafarers-today>

³⁵ Ana Sliskovic and ZV Jezdan Penejic "Occupational stressors, risks and health in the seafaring population" Published by the Review of Psychology, 2015, Vol. 22, No. 1-2, 29-39

There is a large number of stressors, risks and challenges that seafarers face. Seafarers suffer by psychological and physical stress caused mainly by factors like the following:

- They live and work within an isolated confined environment. They may travel for a great period of time (which can last even a lot of months). They are at a great distance from the shore and separated from their families and their friends. This sense of stress is very intense mainly in cases of long term contracts but also when the contact with their family is difficult or when family members have health problems.
- They socialize and interact with the same people, often of mixed genders or culturally diverse, 24 hours per day which can set the interpersonal relationships at stake.³⁶
- There isn't sufficient separation between the working and living environment. They have the same physical environment during both working and non-working time, for weeks or months, a fact that becomes even worse by the limited access to open spaces.
- Their working plan is characterized by long periods of working time, irregular schedules, unpredictable factors caused by cases of emergency demanding the direct occupation of the crew and subsequently the interruption of their periods of rest.
- They face difficulties on taking shore leave mainly due to the strict safe manning.
- They cannot easily evacuate the environment in case of a crisis situation.
- They experience a high sense of responsibility since safety depends on their performance and on their collaboration with the other individuals in the group. The officers feel pressure as they are called to take very risky decisions, they have to control the work of others and sometimes they are based on

³⁶ By McLaughlin, 2012 "Seafarers and seafaring" (The Blackwell Companion to Maritime Economics edited by Wayne K. Talley ch. 16. P. 321-332): ".....The demand for seafarers is a derived demand. Seafaring labor is demanded not for itself, but because of the demand for shipping services, which, in turn, is derived from the demand for the products being shipped. On the supply side, the seafaring labor force is not a single homogeneous entity, but a complexity of associated individuals with different education, training and other characteristics and capabilities".

inappropriate qualified and trained subordinate crew members and even more they have to keep balance between ship safety and economic demands.

- Seafarers have to work in places with high heat and noise while they may travel under bad sea weather. The whole situation is deteriorated by the climate changes during the voyage, the lack of exercise and the hard nature of the physical work (lifting and currying).

- The likelihood of an injury, disease or even death during a voyage far from the shore where the appropriate medical care can be given, is one more stressful factor.

Seafaring has lost its attractiveness in developed countries in recent years a fact that generates new challenges in recruitment and retention of seafarers.³⁷ On the one side, this is due to the technology improvement that lead to increase of automated work on board the vessel and decrease of human labour need and on the other side due to shipping companies' need for labour costs' reduction. This challenge affects the recruitment procedure and subsequently the number of suitable seafarers, the age of them and the general quality of the crews in a way that the daily life of the seafarers on the vessel becomes even more demanding and difficult.

So, the well-being of seafarers has been dramatically influenced within the last decades.

According to many researchers seafarers' wellbeing is related to a broad range of diverse concepts, from the decent working and living conditions to the avoidance of seafarers' abuse and financial exploitation, improvement of their physical and mental health and promotion of prosperity for them and their families³⁸.

³⁷ By McLaughlin, 2012 "Seafarers and seafaring" (The Blackwell Companion to Maritime Economics edited by Wayne K. Talley ch. 16. P. 321-332): "...there is a definite decline in the number of seafarers from the developed countries, which is essentially being counteracted by an increase in those from the labor - supplying countries at junior officer and ratings levels..... There has been a relentless decline in the number of seafarers coming from developed countries, due to an appreciable reduction in recruitment and retention, which means that the age structure of this group has become progressively older. The lack of suitable seafarers from developed countries, coupled with a desire to reduce labor unit costs, has created an increasing demand for seafarers from developing countries. These are the main elements which have gradually created the concept of the seafaring labor - supplying country, which typically has little or no maritime tradition "

³⁸ By Exarchopoulos et al. 2018: Wellbeing can be described as " the summary of all the necessary needs in order the seafarers to be healthy and happy, and all the

The implementation of the M.L.C. 2006 has as main goal the improvement of the working and living environment in a way that seafarers' well-being remains protected by any kind of challenge that threatens it, including the globalization of the shipping industry, flags of convenience and crew members from developing countries which lack maritime tradition, the multicultural crewing, the increased automation and mechanization of work on ships and the short term contracts. Thus, M.L.C. declares its mission already in its preamble where it is referred: "Mindful of the core mandate of the Organization, which is to promote decent conditions of work.....and considering that, given the global nature of the shipping industry, seafarers need special protection...".

2.2. THE ADOPTION OF THE MARITIME LABOUR CONVENTION 2006³⁹

2.2.1 A GENERAL OVERVIEW

As it has already been mentioned in the first chapter, on the 23rd of February 2006, the International Labour Organization in its 94th General Maritime Session at Geneva, Switzerland, adopted the Maritime Labour Convention 2006, a single and coherent as well as pioneer instrument embodying standards contained in 65 existing international Maritime Labour Conventions and Recommendations already adopted by the I.L.O. since 1920,⁴⁰ as well as fundamental principles of other international Labour Conventions.

The Maritime Labour Convention,2006 (hereafter "the Convention" or "M.L.C. 2006"), consists the first International Maritime Labour Code and becomes the "fourth pillar" of the international maritime law completing the other three pillars

statutory procedures which should be established by the international shipping community to address this fundamental and vital theme"

³⁹ No Ref.3527.1.2/01/2013/10-09-2013 Circular of Ministry of Shipping Maritime Affairs with Subject: "Implementation of the requirements of the Maritime Labour Convention, 2006 (MLC, 2006) of the International Labour Organization (ILO)".

⁴⁰ By George Politakis: Article "Bringing the human element to the forefront: the ILO's Maritime Labour Convention, 2006 ready to sail" published in 2013: "... Only three Conventions are not consolidated in the MLC, 2006: the Seafarers' Pensions Convention, 1946 (No. 71), the Seafarers' Identity Documents Convention, 1958 (No. 108) and the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185)".

which are the most essential Conventions of the International Maritime Organization:

- The International Convention on Safety of Life at Sea, 1974, (SOLAS),
- The International Convention on Standards of Training, Certification and Watch-keeping for Seafarers, 1978 (STCW) and
- The International Convention for the Prevention of Pollution from Ships, 1973 and its Protocol of 1978” (MARPOL).

The M.L.C. 2006 is often described as providing: a ‘bill of rights’ and a “passport to decent work” for seafarers who are characterized as a special category of workers, establishing mandatory minimum standards within the global industry.⁴¹ The Convention entered into force on 20 August 2013 and thereafter it became a binding international law, one year after registering 30 ratifications of countries representing over 33 per cent of the world gross tonnage of ships.

2.2.2. THE MAIN PURPOSES⁴²

The basic aims of Convention are:

- To bring the system of protection contained in existing labour standards closer to the workers concerned, in a form consistent with the rapidly developing, globalized sector “**ensuring decent work**” .
- To improve the applicability of the system so that ship-owners and governments interested in providing decent conditions of work do not have to bear an unequal burden in ensuring protection, (“**level-playing field**”-**fair competition**).

The Convention aims to ensure decent working and living conditions for the seafarers on board the vessel and effective protection of the rights for decent

⁴¹ M.L.C. 2006 by Jennifer Lavelle: p. 5(Foreword) “The M.L.C. of 2006 (MLC) is often described as providing: a ‘bill of rights’ for seafarers recognized as a special category of worker, enshrining mandatory minimum standards in a truly global industry; a ‘fourth pillar’ to the international regime regulating ships and complementing the key conventions of the International Maritime Organization; and a ‘level playing field’ for ship owners, achieving fair competition and equality of treatment for flag States.”

⁴²<https://www.ilo.org/global/standards/maritime-labour-convention/what-it-does/faq/lang--en/index.htm> :M.L.C. 2006 Frequently Asked Questions 4th edition 2015

conditions in accordance with the terms of the rapidly developing and highly globalized labour market.

It also aims to establish a continuous “**compliance awareness**” at every stage, from the national systems of protection up to the international systems and for all the participants. Within this framework, under the M.L.C. 2006:

- Seafarers have to be always properly informed of their rights and of the remedies available in case of alleged non-compliance with the requirements of the Convention and of their right to make complaints, both on board ship and ashore.

- Ship-owners are required to develop and carry out plans for ensuring that national laws, regulations or other measures for the implementation of the MLC, 2006 are appropriately applied by the crewmembers.

- Shipmasters are responsible for carrying out the ship-owners’ stated plans, and for keeping proper records that demonstrate implementation of the requirements of the Convention.

- Flag States (or a recognized organization on its behalf) have to review the ship-owners’ plans, verifies and certifies that they are actually being implemented. They have also to ensure that national regulations with which Convention’s standards have been embodied within the national law are properly implemented on smaller ships, including those that are not engaged in international voyages and they are not covered by the certification system and also to carry out periodic quality assessments of the effectiveness of their national systems of compliance and to submit related reports to the ILO.

The inspection system of a state member is further reinforced by inspections in ships with foreign flags which approach a domestic port so as to assure that it meets the international standards.

2.2.3. GENERAL OBLIGATIONS OF EACH MEMBER

According to the article 1 of the Convention each Member which ratifies this Convention undertakes to fully complete its provisions in the manner defined in Article VI (of the Convention) in order to secure the right of all seafarers to decent employment. Members have to cooperate with each other with main purpose the effective implementation and enforcement of this Convention.

2.2.4 MOST IMPORTANT DEFINITIONS⁴³

For the right comprehension of the Convention's provisions the meaning of the following definitions deserves to be clarified:

(a) As **Competent authority** is defined the minister, government or other authority that has the jurisdiction to issue and enforce regulations, orders or other instructions which have the force of law in respect of the subject matter of the provision concerned.

(b) The term **Requirements** of this Convention includes the requirements of the Convention's Articles , Regulations and the Part A of its Code while the guidelines of Part B' of the Code are not included.

(f) **Seafarer** means any person who is employed or engaged or works in any capacity on board a ship to which this Convention applies. By this meaning, seafarers are not only the crew members engaged in navigational or operational work but crew members of departments of general duties like stewards, cook personnel and members with accountant tasks. Seafarers also are regarded the cadets employing on board the vessel although they are under training.

(g) **Seafarers' employment agreement** includes the contract of employment with its terms which must be in accordance with the provisions of the Regulation 2.1.

(i) **Ship** means a ship -whether public or private engaged in commercial activities- except for ships navigate exclusively in inland waters or waters within,

⁴³ Article II of the M.L.C. 2006

or closely adjacent to, sheltered waters or areas where port regulations apply or ships engaged in fishing or similar activities, traditionally built ships (like the so called “dhow” and “junks’) naval ships and auxiliary to Navy ships

(j) One of the most important terms is this of the Ship-owner. As **Ship-owner** is defined not only the owner of the ship but any another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on ship-owners in accordance with this Convention, regardless of whether any other organization or persons fulfill certain of the duties or responsibilities on behalf of the ship-owner. Thus, with this broad term it becomes easier for any interesting person (especially seafarers) to identify the entity that has the total responsibility on issues addressed by the Convention⁴⁴.

2.2.5. FUNDAMENTAL EMPLOYMENT AND SOCIAL RIGHTS AND PRINCIPLES⁴⁵

The M.L.C. 2006, in accordance with its main purpose to ensure decent working conditions and its characterization as “bill of rights” for the seafarers requires governments to make sure that their laws and regulations respect certain fundamental rights relating to labour sector. Thus, in the article III it provides that each Member owes to adopt laws and regulations that respect the fundamental rights to:

1. Freedom of association and the effective recognition of the right to collective bargaining,
2. The elimination of all forms of forced or compulsory labour,
3. The effective abolition of child labour and
4. The elimination of discrimination in respect of employment and occupation.

⁴⁴By George Politakis: Article “Bringing the human element to the forefront: the ILO’s Maritime Labour Convention, 2006 ready to sail” published in 2013: “... At a time when most ships are operated by management agencies acting on behalf of the ship-owner, this definition is particularly important as it makes it possible to identify in all circumstances the person or organization responsible for seafarers’ living and working conditions under the Convention

⁴⁵ Articles iii and IV of the Convention

Similarly, the Convention with the article IV provides for seafarers' employment and social rights that must be protected by the members:

1. Every seafarer has the right to a safe and secure workplace that complies with safety standards.
2. Every seafarer has a right to fair terms of employment
3. Every seafarer has a right to decent working and living conditions on board ship.
4. Every seafarer has a right to health protection, medical care, welfare measures and other forms of social protection.

2.2.6. IMPLEMENTATION AND ENFORCEMENT RESPONSIBILITIES

The M.L.C. 2006 in article V defines a series of responsibilities concerning the way of implementation of the Convention and the enforcement of compliance with its provisions by the members that ratify it. So, it is provided that each member:

1. Shall implement and enforce laws or regulations or other measures to fulfill its commitments under this Convention.
2. Shall effectively exercise its jurisdiction and control over ships that fly its flag by establishing a system for ensuring compliance with the requirements of this Convention, including regular inspections, reporting, monitoring and legal proceedings under the applicable laws (**Flag State responsibilities**).
3. Shall ensure that ships that fly its flag carry a maritime labour certificate and a declaration of maritime labour compliance as required by this Convention. (**Maritime Labour Certificate and Declaration of Compliance**).
4. Shall effectively exercise its jurisdiction and control over seafarer recruitment and placement services, if these are established in its territory. (**Labour supplying responsibilities**).
5. A ship to which the Convention applies may be inspected by a Member other than the flag State, when the ship is in one of its ports, to determine whether it is in compliance with the requirements of this Convention. (**Port State responsibilities**).

6. Each Member has to prevent violations of the requirements of the Convention and for this purpose it has to impose sanctions and/or to demand corrective measures so as to discourage such violations.

7. One of the most innovative features of the Convention is the so called “**No more favorable treatment**” term which means that each Member has to implement its responsibilities in a way that will ensure that ships with flag of States that have not ratified the Convention will not have more favorable treatment in comparison to ships with flag of a State that has ratified it.

In this way, the M.L.C. 2006 sets out the foundation for the responsibilities of the members to implement their duties under this Convention with respect to ships that fly their flag, to the development of international cooperation in the implementation and enforcement of the Convention’s standards on foreign ships and to seafarers recruitment and placement and the social protection of them.

It sets out the responsibility of each flag state to require by its ships to carry and keep in force a maritime labour certificate complemented by a declaration of maritime labour compliance as a prima face evidence that the working and living conditions of seafarers on the ship have been inspected and meet the requirements of national laws or regulations or other measures implementing this Convention.

It, also, establishes a “level playing field” under which ships with flag of countries that have ratified the Convention will not be placed at a competitive disadvantage in comparison to ships with flag of countries that have not ratified the MLC, 2006. so as when these ships call at a port of a ratifying country the working and living conditions on these ships may also be subject to inspection by the local port states.

2.3. THE STRUCTURE OF THE CONVENTION

2.3.1. STRUCTURAL OVERVIEW

The MLC starts with a Preamble setting out the context in which the Convention was adopted.

The whole structure of the Convention differs from this of traditional ILO Conventions. It is organized into three different but related parts:

The 16 Articles which are placed at the beginning and set out the broad principles and international obligations.

The 28 Regulations that follow the articles and are more detailed. They set out the basic requirements regarding specific conditions of work of the seafarers and how these requirements are to be applied.

The Code which contains the details for the implementation of the regulations and it consists of two parts:

Part A (mandatory Standards) with purpose to indicate to the members how implement the requirements in the regulations and

Part B (non-mandatory Guidelines) with purpose to provide the recommended way to implement the obligations.

The Regulations and the Code organized in five Titles cover the same subject matters as the existing 37 maritime labour conventions and associated Recommendations that had been adopted by the ILO since 1920 updating them where necessary.⁴⁶

⁴⁶F.A.Q. A5 "What is new in the Maritime Labour Convention, 2006 (MLC, 2006)": "... the Regulations and the Code are organized in five Titles, which essentially cover the same subject matter as the existing 37 maritime labour Conventions and associated Recommendations that had been adopted by the ILO between 1920 and 1996, updating them where necessary. There are a few new subjects, particularly in the area of occupational safety and health to meet contemporary concerns, such as the effects of noise and vibration on workers or other workplace risks, but in general the Convention aims at maintaining the core standards in the current instruments at their present level, while leaving each country greater discretion in the formulation of its national laws establishing that level of protection. The provisions relating to flag State inspection, including the use of "recognized organizations" (ROs) builds upon the ILO Labour Inspection (Seafarers) Convention, 1996 (No. 178). The potential for inspections in foreign ports (port State control) in Title 5 is based on existing maritime Conventions, in particular Convention No. 147 – the Merchant Shipping (Minimum Standards) Convention, 1976 – and the Conventions adopted by the IMO and the regional port State control agreements (PSC MOU). However, the MLC, 2006 builds upon them to develop a more effective approach to these important issues, consistent with other international maritime Conventions that establish standards for quality shipping with respect to issues such as ship safety and security and protection of the marine environment. One of

2.3.2. THE TITLES

The Regulations, the Standards (Part A of the Code) and Guidelines (Part B of the Code) are vertically integrated and organized into general areas of concern under five Titles:

Title 1. Minimum requirements for seafarers to work on a ship

- **Regulation 1.1. “Minimum age** with purpose to ensure that no minor persons will work on a ship.
- **Regulation 1.2. “Medical certificate”** with purpose to ensure that all seafarers are medically fit to meet their duties at sea.
- **Regulation 1.3. “Training and qualifications”** with purpose to ensure that seafarers are trained or qualified to carry out their duties on board ship.
- **Regulation 1.4. “Recruitment and placement”** with purpose to ensure that seafarers have access to an efficient and well regulated seafarer recruitment and placement system.

Title 2. Conditions of employment

- **Regulation 2.1. “Seafarers’ employment agreements”** with purpose to ensure that seafarers have a fair employment agreement.
- **Regulation 2.2. “Wages”** with purpose to ensure that seafarers are paid for their services.
- **Regulation 2.3. “Hours of work and rest”** with purpose to ensure that seafarers have regulated hours of work or hours of rest.
- **Regulation 2.4. “Entitlement to leave”** with purpose to ensure that seafarers receive sufficient leave.
- **Regulation 2.5. “Repatriation”** with purpose to ensure that seafarers can return home.

the most innovative aspects of the MLC, 2006 as far as ILO Conventions are concerned, is the certification of seafarers’ living and working conditions on board ships ”.

- **Regulation 2.6. “Seafarers compensation for the ship’ loss or foundering”** with purpose to ensure that seafarers are compensated when a ship is lost or has been foundered.

- **Regulation 2.7. “Manning levels”** with purpose to ensure that seafarers work on board ships with sufficient personnel for the safe, efficient and secure operation of the ship.

- **Regulation 2.8. “Career and skill development & opportunities for seafarers’ employment”** with purpose to promote career and skill development and employment opportunities for seafarers.

Title 3. Accommodation, recreational facilities, food and catering

- **Regulation 3.1 “Accommodation and recreational facilities”** with purpose to ensure that seafarers have decent accommodation and recreational facilities on board.

- **Regulation 3.2. “Food and catering”** with purpose to ensure that seafarers have access to good quality food and drinking water provided under regulated hygienic conditions.

Title 4. Health protection, medical care, welfare and social security protection

- **Regulation 4.1. “Medical care on board ship and ashore”** with purpose to protect the health of seafarers and ensure their prompt access to medical care on board ship and ashore.

- **Regulation 4.2. “Ship-owners’ liability”** with purpose to ensure that seafarers are protected from the financial consequences of sickness, injury or death occurring in connection with their employment.

- **Regulation 4.3. “Health and safety protection and accident prevention”** with purpose to ensure that seafarers’ work environment on board ships promotes occupational safety and health.

- **Regulation 4.4. “Access to shore-based welfare facilities”** with purpose to ensure that seafarers working on board a ship have access to shore-based facilities and services to secure their health and wellbeing.

- **Regulation 4.5. “Social security”** with purpose to ensure that measures are taken with a view to providing seafarers with access to social security protection.

Title 5. Compliance and enforcement

- **Regulation 5.1. “Flag state responsibilities”** with purpose to ensure that each Member implements its responsibilities under this Convention with respect to ships that fly its flag.

- **Regulation 5.2. “Port State responsibilities”** with purpose to enable each Member to implement its responsibilities under this Convention regarding international cooperation in the implementation and enforcement of the standards on foreign ships.

- **Regulation 5.3. “Labour-supplying responsibilities”** with purpose to ensure that each Member implements its responsibilities under this Convention as pertaining to seafarer recruitment and placement and the social protection of its seafarers.

2.3.3. THE VERTICAL INTEGRATION OF THE PROVISIONS

The provisions in the Regulations, the Standards (Part A of the Code) and the Guidelines (Part B of the Code) have been vertically integrated in the Convention in a way that they have been arranged and linked together according to their subject matter.

In this regard, each of the Titles in the MLC, 2006 consists of various Regulations covering a particular aspect of the subject, each Regulation is followed first by the Part A Standards and then by the Part B Guidelines related to the same aspect. The numbering system in the Convention also reflects this structure.

Example:

Title 1. Minimum requirements for seafarers to work on a ship contains

Regulation 1.1 – Minimum Age, and
Standard A1.1 – Minimum age and
Guideline B1.1 – Minimum age.

2.4. EFFECT ON OTHER CONVENTIONS⁴⁷

The M.L.C. 2006 changed the status of 37 ILO instruments (36 conventions and one protocol). These conventions that are consolidated by the M.L.C. 206 are listed in the article X of the Convention and they are the following:

1. Minimum Age (Sea) Convention, 1920
2. Unemployment Indemnity (Shipwreck) Convention, 1920
3. Placing of Seamen Convention, 1920
4. Medical Examination of Young Persons (Sea) Convention, 1921
5. Seamen's Articles of Agreement Convention, 1926
6. Repatriation of Seamen Convention, 1926
7. Officers' Competency Certificates Convention, 1936
8. Holidays with Pay (Sea) Convention, 1936
9. Ship-owners' Liability (Sick and Injured Seamen) Convention, 1936
10. Sickness Insurance (Sea) Convention, 1936
11. Hours of Work and Manning (Sea) Convention, 1936
12. Minimum Age (Sea) Convention (Revised), 1936
13. Food and Catering (Ships' Crews) Convention, 1946
14. Certification of Ships' Cooks Convention, 1946
15. Social Security (Seafarers) Convention, 1946
16. Paid Vacations (Seafarers) Convention, 1946
17. Medical Examination (Seafarers) Convention, 1946
18. Certification of Able Seamen Convention, 1946
19. Accommodation of Crews Convention, 1946
20. Wages, Hours of Work and Manning (Sea) Convention, 1946
21. Paid Vacations (Seafarers) Convention (Revised), 1949

⁴⁷ Article X of the Convention “Effects on entry into force”

22. Accommodation of Crews Convention (Revised), 1949
23. Wages, Hours of Work and Manning (Sea) Convention (Revised), 1949
24. Wages, Hours of Work and Manning (Sea) Convention (Revised), 1958
25. Accommodation of Crews (Supplementary Provisions) Convention, 1970
26. Prevention of Accidents (Seafarers) Convention, 1970
27. Continuity of Employment (Seafarers) Convention, 1976
28. Seafarers' Annual Leave with Pay Convention, 1976
29. Merchant Shipping (Minimum Standards) Convention, 1976 (and 1996 protocol)
30. Seafarers' Welfare Convention, 1987
31. Health Protection and Medical Care (Seafarers) Convention, 1987
32. Social Security (Seafarers) Convention (Revised), 1987
33. Repatriation of Seafarers Convention (Revised), 1987
34. Labour Inspection (Seafarers) Convention, 1996
35. Recruitment and Placement of Seafarers Convention, 1996
36. Seafarers' Hours of Work and the Manning of Ships Convention, 1996

Countries that ratify the MLC, 2006 are not bound by the Conventions already ratified by them when the MLC 2006 came into force for them. Countries that do not ratify the MLC, 2006 remain bound by the existing Conventions they have ratified and are required to continue to report on national implementation to the ILO supervisory system.

2.5. INSPECTION AND CERTIFICATION⁴⁸

2.5.1. PROCESSES

Ships to which the M.L.C. 2006 applies are subjected to inspection and certification process or only to inspection process.

- All ships 500 G.T. or over engaged in international voyages meaning a voyage from a country to a port outside such a country- or operating from a port or between ports of a foreign country are obliged to be inspected and certified by a competent Authority or a Recognized Organization (R.O.).

- Any other ship that brings the flag of a member but it doesn't belong to the above cases, is also subjected to inspection and certification process if the ship-owner requires it.

- The other ships that are not included in the above categories are to be inspected by the competent authority or a recognized organization but are not obliged to be certified.

2.5.2 AREAS SUBJECTED TO INSPECTION AND CERTIFICATION PROCESS

The working and living conditions of seafarers that must be inspected and approved by the flag State before certifying a ship are the following (Appendix A5-1 of the Convention):

- Minimum age
- Medical certification
- Qualifications of seafarers
- Seafarers' employment agreements
- Use of any licensed or certified or regulated private recruitment and placement service.

- Hours of work or rest
- Manning levels for the ship
- Accommodation
- On-board recreational facilities

⁴⁸ Regulation 5.1.3. "Maritime labour certificate and declaration of maritime labour compliance" of title 5 "Compliance and enforcement" of the Convention

- Food and catering
- Health and safety and accident prevention
- On-board medical care
- On-board complaint procedures
- Payment of wages
- Financial security for repatriation
- Financial security relating to ship-owners' liability

It is important to be clarified that the M.L.C. certificate denotes the compliance to the whole Convention not only the 15 items subjected to certification.

2.5.3. REQUIRED DOCUMENTS ON BOARD THE VESSEL

1. Ships subjected to inspection process only

When a ship is subjected only to inspection by the Competent Authority or the Recognized Organization a detailed report demonstrating the ongoing compliance of the ship in respect to the MLC 2006 suffices. A copy of this report must be provided to the ship's master and one more copy must be posted on the shipboard for the seafarers.

2. Ships subjected to inspection and certification process

Ships subjected to inspection and certification process are required to carry and maintain:

- **A Maritime Labour Certificate** (hereafter Certification) certifying that the working and living conditions of seafarers on the ship have been inspected and meet the requirements of national laws or regulations or other measures.

The Certificate is issued or renewed by the Competent Authority or the Recognized Organization (R.O.) which is duly authorized for this purpose after they have ascertained through inspection that a ship that flies the Member's flag meets or continues to meet the standards of this Convention.

The validity of the Certificate cannot exceed the five years and it is subjected to an intermediate inspection by the competent authority, or the R.O. to ensure continuing compliance with the national requirements implementing this Convention.

The intermediate inspection takes place between the second and third anniversary dates of the certificate. Anniversary date means the day and month of each year which corresponds to the date of expiry of the maritime labour certificate.

When the renewal inspection has been completed within three months before the expiry of the existing Certificate, the valid of the new one begins from the date of completion of the renewal inspection for a period not exceeding five years from the date of expiry of the existing Certificate.

When the renewal inspection is completed more than three months before the expiry date of the existing Certificate, the validity of the new Certification starts from the date of completion of the renewal inspection and for a period not exceeding five years.

- **An Interim Maritime Labour Certificate** which may be issued on an interim basis and for a period not more than six months by the competent authority or the R.O:

- (a) to new ships on delivery

- (b) when a ship changes flag or

- (c) when a ship-owner assumes responsibility for the operation of a ship which is new to that ship-owner.

- **A Declaration of Maritime Labour Compliance** which is attached to the Maritime Labour Certificate and it consists of two parts:

- Part I which is drawn up by the competent authority and it identifies the list of matters to be inspected and the national requirements embodying the relevant provisions of the Convention by providing a reference to the relevant national legal provisions. It also includes details regarding to ship-type specific requirements under national legislation, any substantially equivalent provisions and any exemption granted by the competent authority as provided and

-Part II which is drawn up by the ship-owner and it includes proposed measures that ensure compliance with the national requirements and continuous improvement.

The competent authority or the R.O. certifies Part II and it issues the Declaration of Maritime Labour Compliance. The Certificate, the interim Certificate and the Declaration of Maritime Labour Compliance must correspond to the models given in **Appendix A5-II**.

Both valid Certificate and Declaration constitute prima facie evidence that the requirements of the Convention have been met. They must be carried on the ship and a copy of them must be posted in a conspicuous place on board where it is available to seafarers. One more copy must be available, upon request, to seafarers, flag State inspectors, authorized officers in port States, and ship-owners' and seafarers' representatives.

2.5.4. CEASE OF VALIDITY OF THE MARITIME LABOUR CERTIFICATE

A Maritime Labour Certificate ceases to be valid in the following cases:

- (a) If the relevant inspections are not completed within the specified periods,
- (b) If the certificate is not endorsed after the intermediate inspection,
- (c) When a ship changes flag,
- (d) When a ship-owner ceases to assume the responsibility for the operation of a ship and
- (e) When substantial changes have been made to the structure or equipment covered in Title 3.

It also must be withdrawn if there is evidence that the ship does not comply with the requirements of the Convention and any required corrective action has not been taken.

2.6. AMMEDMENT PROCEDURE.

The MLC, 2006 has an accelerated amendment procedure in order to keep pace with developments in the maritime industry and which is one of the innovative elements introduced by the Convention. The simpler way of amendments adopted by the Convention in the article XV brings, for first time, the I.L.O closer to the I.M.O.'s amendment procedures guiding the Organization to diverge from its conventional ways of amendments⁴⁹.

The article XIV provides for details for amendment of any provision of the Convention and these procedures are close to the current ILO procedures for revising Conventions.

According to this article, in the case of Members whose ratifications of this Convention were registered before the adoption of the amendment, the text of the amendment shall be communicated to them for ratification while for the other Members, the text of the Convention as amended shall be communicated to them for ratification in accordance with article 19 of the Constitution of the I.L.O.

An amendment is regarded acceptable when there have been registered ratifications, of the amendment or of the Convention as amended, by at least 30 Members with a total share in the world gross tonnage of ships of at least 33 per cent. An amendment or the convention as has been amended shall come into force 12 months after the aforementioned acceptance or 12 or 12 months after the date of which a member's ratification has been registered, whichever date is later.

For those Members whose ratification of this Convention was registered before the adoption of an amendment but which have not ratified the amendment, this Convention shall remain in force without the amendment concerned.

The article XV describes the procedure according to which the Code can be amended if it is not amended according to the article XIV. This simplified

⁴⁹ George Politakis "Bringing the human element to the forefront: the ILO's Maritime Labour Convention, 2006 ready to sail" article 2013:"By opting for a simplified amendment procedure, the MLC, 2006 breaks also with another well-entrenched ILO tradition, that is the adoption of revising Conventions or Protocols which may well close revised Conventions to further ratification but permit nonetheless the legal co-existence of separate instruments, revised and revising. In contrast, no matter the number of subsequent amendments of the MLC, there will always be a single amended Convention"

amendment procedure is closer to procedures already established by the IMO as procedures for amendment of other conventions.

The Code relates to the technical and detailed implementation of the basic obligations under the Convention and thus it needs more accelerated ways of amendment which are defined in the Article XV. This procedure will enable changes to the Code to come into effect, within three to four years from when they are proposed.

A ratifying Member will not be bound by such an amendment, if it expresses formal disagreement within a period of two years.

An amendment approved by the Conference is deemed to have been accepted unless formal expressions of disagreement have been received by the Director-General from more than 40 per cent of the Members which have ratified the Convention and which represent not less than 40 per cent of the gross tonnage of the ships of the Members which have ratified the Convention.

According to the article XV, an amendment deemed to have been accepted shall come into force six months after the end of the prescribed period for all the ratifying Members except those which had formally expressed their disagreement and have not withdrawn such disagreement.

After entry into force of an amendment, the Convention may only be ratified in its amended form.

2.7. THE APPLICATION OF THE CONVENTION

2.7.1. THE APPLICATION OF THE CONVENTION TO SEAFARERS AND SHIPS.⁵⁰

The Convention applies to all seafarers and to all ships, whether publicly or privately owned, ordinarily engaged in commercial activities, other than ships engaged in fishing or in similar pursuits and ships of traditional build such as dhows and junks. This Convention does not apply to warships or naval auxiliaries.

⁵⁰ Article II of the M.L.C. 2006

In the event of doubt as to whether this Convention applies to a ship or to a seafarer the question is regulated by the competent authority in each Member after consultation with the ship-owners' and seafarers' organizations concerned.

2.7.2. THE DEGREE OF FLEXIBILITY ON THE APPLICATION OF THE M.L.C 2006⁵¹

The MLC, 2006 is an international legal instrument and does not, therefore, apply directly to ship-owners, ships or seafarers. Each country that ratifies it has to implement it through its national laws or other measures. The national law or other measures would then apply to ship-owners, seafarers and ships. The minimum standards set out by the Convention must be reflected in the national standards or requirements or other national implementing measures and are subject to the usual oversight role taken by the ILO's Committee of Experts on the Application of Conventions and Recommendations under the ILO supervisory system.

The Convention provides for a degree of flexibility with regard to the way each country can embody the provisions of the Convention within its national law or equivalently implement them. Flexibility is also notable with the form of exceptions. The following provisions of the Convention are representative enough of this flexible character of the Convention:

- **In the article II par. 6** of the Convention is provided that where the competent authority determines that it would not be reasonable or practicable at the present time to apply certain details of the Code to a ship or particular categories of ships flying the flag of the Member, the relevant provisions shall not apply if the matter can be regulated by national laws or regulations or collective bargaining. This presupposes consultation with the ship-owners' and seafarers' organizations and it is applicable only to ships of less than 200 gross tonnage not engaged in international voyages.

⁵¹ <https://www.ilo.org/global/standards/maritime-labour-convention/what-it-does/faq/lang--en/index.htm/> Frequently Asked Questions 4th Edition 2015

- **The article IV par. 5** of the Convention provides that each Member can ensure the implementation of seafarers' employment and social rights set out in this Article in accordance with the requirements of this Convention through national laws or regulations, applicable collective bargaining agreements, other measures or in practice, unless otherwise is provided in the Convention ”.

- The most notable example of the flexible character of the Convention is **in the article VI par. 1** where is provided that the Regulations and the provisions of Part A of the Code are mandatory while the provisions of Part B are not mandatory and moreover in par. 3 and 4 where is the so called SUBSTANTIALLY EQUIVALENT provision. According to this provision, a Member which is not in a position to implement the rights and principles in the manner set out in Part A of the Code may, unless expressly provided otherwise in this Convention, implement Part A through provisions in its laws and regulations or other measures which are substantially equivalent to the provisions of Part A.

For this only purpose, any law, regulation, collective agreement or other implementing measure shall be considered to be substantially equivalent, in the context of this Convention, if the Member satisfies itself that:

(a) it is conducive to the full achievement of the general object and purpose of the provision or provisions of Part A of the Code and

(b) it gives effect to the provision or provisions of Part A of the Code concerned”.

- The fact that a member can duly authorize public institutions or other organizations to carry out inspections or to issue certificates or to do both of them (**The Regulation 5.1.1. par. 3**) and also the exception of the ships less than 500 g.t of the requirement to be certified (**Regulation 5.1.3.**) form additional examples of the flexibility of the Convention.

So, each country has at its disposal alternative ways of action when it has to decide whether a particular provision of the Convention is going be embodied in a national law or regulation or other subsidiary legislation or -in cases where the MLC, 2006 does not specifically require legislation- or it is going to deal with certain matters through other legal measures like collective bargaining agreements or domestic administrative instructions.

2.8. THE POSITIVE IMPACT OF THE NEW CONVENTION

2.8.1. GENERAL POSITIVE IMPACT

The M.L.C has become a convention of global recognition, an international standard known as the “fourth pillar” that complements other conventions of the IMO (S.O.L.A.S., S.T.C.W., and MAR.POL.) and altogether ensure quality within the world of shipping which equals to a safer and more secure working environment and to better protection of the sea environment.⁵² A strong supervisory mechanism is at all partnerships’ disposal from ship-owners and shipmasters who can now better supervise the conditions on their ships, the flag state’s jurisdiction on ships with the flag of the state and the port state’s inspection on vessel with foreign flag, to seafarers who now -with the procedure of complaints’ handling- can better control the compliance of shipping companies and masters with the Convention’s requirements concerning seafarers’ working and living conditions.

The simplified amendment procedure of the article XV of the Convention ensures a more flexible and quick way of updating the terms of the Convention so as to keep up with the demands that springs from the always changing shipping industry. The special committee of the article XIII is able to develop and adopt the necessary amendments, subject to the approval of the International Labour Conference and the approved amendments come into force within a period of normally 30 months from their submission to the member States that have ratified the Convention.

⁵² Moira L. McConnell, Professor of Law in its article with title **“The ILO’s Maritime Labour Convention, 2006: Filling a Gap in the Law of the Sea”** notice that: “... not only are labour, social and economic matters relevant to marine environmental protection, they should be viewed as central concerns. Too often, the human and economic dimensions are left out of discussions about preventing ship source operational or accidental harms to the marine environment..... this is not say there is an absence of international instruments addressing social and labour conditions for ocean workers – seafarers and fishers..... the point is that these matters are not generally seen as a LOSC (Law of the Sea Convention) concern.

2.8.2. ADVANTAGES FOR SEAFARERS

The new Convention consolidates the most important maritime labour standards and it manages to offer a comprehensive set of basic maritime labour principles and fundamental rights. Seafarers now have at their disposal a useful instrument that gathers in one place and in clear language their employment rights. So, they can now be better informed about their rights and thereafter feel more secure and responsible too.

The M.L.C. 2006 contributes to the achievement of satisfactory employment and social conditions throughout the shipping industry worldwide so as seafarers experience better working and living environment on board the vessel and feel healthy and satisfied.

It sets minimum requirements for seafarers' employment on the ship like the medical certificate, the minimum age limit and the training and qualifications of seafarers.

It sets the foundation for better conditions of employment with stricter regulations on the employment agreements, the hours of work and rest, seafarers' payment of wages, the right to leave and the repatriation. It targets to ensure decent accommodation, better recreational facilities food and catering of high quality, health protection, direct medical care on board the vessel and ashore, welfare, professional safety and health and social security protection.

Now, seafarers have the potential to make complaints both on board and ashore since the regulation 5.1.5 ensures procedures for the fair and effective handling of seafarer complaints alleging breaches of the requirements of the Convention.

Also, they can clearly identify the entity with the overall responsibility for the purpose of this Convention.

2.8.3. ADVANTAGES FOR SHIP-OWNERS

The convention has a positive influence in social dialogue at all levels leading to a more socially responsible shipping industry. The ratification and implementation process demands participation and collaboration not only of governments' representatives but of ship-owners and seafarers organizations' too promoting in this way the development of social dialogue among the partners⁵³.

Ship-owners can operate ships that are equipped with better protected, well informed, more responsible and highly qualified and skillful workforce which can ensure the safe and secure operation of the vessels with fewer accidents and subsequently fewer responsibilities and expenditures for the ship-owners.

It contains minimum standards that are in accordance with the current industry practices and should easily be met by most ship-owners. It establishes a level playing field⁵⁴ so as fairness prevails in the world of competition ensuring that all participants have to comply with the same rules. Ship-owners of countries that already protect seafarers' rights in accordance with existing Conventions, now with the M.L.C. have no or few additional substantive obligations and their ships will benefit from a certificate allowing them to avoid delays that could have been caused by detailed port state inspections, in normal cases. Due to the principle of no more favorable treatment the MLC 2006 ensures a certain protection against unfair competition from substandard ships. The authorities of countries that have ratified the Convention now can require all ships that visit their ports to respect many of the standards of the Convention regardless of whether or not the country whose flag the ships fly is bound by the Convention. As a consequence, most ships trading internationally cannot ignore the requirements of this Convention.

⁵³Conference Paper by H. Thanopoulou et. al. 2015 "Assessing the impact of the M.L.C. 2006. Queering the data from the first implementation period": ".....The MLC has shown how tripartite dialogue and international cooperation can operate constructively for the largest globalized cargo transport industry; this by concretely addressing the challenges related to securing decent working and living conditions for seafarers, while simultaneously helping to ensure, level playing field,(Council of the European Union, 2007) fair competition for ship-owners".

⁵⁴ Article by Moira L. McConnell 2011 "The Maritime Labour Convention, 2006—reflections on challenges for flag State implementation".

CHAPTER 3: IMPLEMENTATION OF THE MARITIME LABOUR CONVENTION 2006 ON VESSELS THAT FLY THE GREEK FLAG

3.1. RATIFICATION BY THE GREEK GOVERNMENT

The M.L.C 2006 was ratified by the Greece with the law No 4078 in 2012 which was published in the number 179/A Government Gazette.

The Law publishes the original text in English, as well as the Greek translation and it consists of nine articles.

The Article First ratifies the Convention and presents it in English and in Greek language.

The Article Second stipulates that the definition “Convention” means the ratified according to the Article First convention along with the appendixes attached to it.

The Article Third describes the way in which the Regulations are ratified with presidential decrees. Initially, the Regulations are approved with ministerial decisions and after a period of one year of their force they must be ratified with or without amendment. These Regulations set the terms for the recognition of the organizations which can provide services on board the vessels that fly the Greek flag and mainly with regard to inspection and certification process and supervision and control of these organizations. The Minister of Maritime Affairs and Insular Policy is competent for the proposal of the presidential decrees and the issuance of the ministerial decisions.

The Article fourth stipulates that the authorities competent to inspect the application of the provisions of the Convention and the above-stated Regulations, to attest violations, to impose sanctions and to verify accusations are:

- In Greece, the Port Authorities and
- In abroad, the officers of the Hellenic Coast Guard who work in the Consular Authorities with administrative tasks on shipping and in case there is not a Consular Authority with officers of the Hellenic Cost Guard, then as Competent Authority are defined the Greek Consular Authorities and
- Other authorities defined by the regulations issued according to this law.

The Article Fifth refers that the violators of the provisions of the law and of the related issued presidential decrees and ministerial decisions are punished according to the provisions of the article 45 (as has been amended and remains in force) of the Public Maritime law Code (legislative decree No 187/1973) and which is in force for appeals too.

The Article Sixth stipulates that amendments of the Convention, according to its article XIV are ratified by law, while amendments of the Code according to the article XV of the Convention are accepted with presidential decree issued with proposal of both the Minister of External Affairs and the Minister of Maritime Affairs and Insular Policy and in common with the competent per case Minister.

The Article Seventh clarifies that in case of “conflict” between the Greek and the English text of the Convention it prevails the English one.

The Article Eighth includes the national conventions that are updated by the Convention and which are the following:

- a) “Unemployment Indemnity in case of ship loss caused by shipwreck” Convention (l.d.1925/A’ 291).
- b) “Placement of seafarers” Convention (l.d. 1925 A’ 291).
- c) “Mandatory medical inspection of children and young persons who work on board the vessel” Convention (Law 4674/1930 A’ 156).
- d) “Repatriation of seamen” Convention (Law 1130/1981 A’ 38).
- e) “Ship-owners’ liability in case of sickness, injury or death of seamen” Convention (law 366/1968 A’ 88).
- f) “Food and catering of crews” Convention (Law 1163/1981 A’ 154).
- g) “Certification of ships’ cooks” Convention (Law 4317/1963 A’ 87).
- h) “Medical examination of seafarers” Convention (Law 1131/1981 A’ 39).
- i) “Accommodation of crews” (revised 1949) Convention (Law 1637/1986 A’ 107).
- j) “Accommodation of crews” (supplementary provisions Law 1594/1986 A’ 65).
- k) “Prevention of seafarers’ accidents” Convention (Law 486/1976 A’ 321).
- l) “Minimum safety standards of merchant shipping 1976” (Law 948/1979 A’ 167).

- m) “Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976 ” (Law 2974/2001 A’).
- n) “Hours of work and manning” Convention (Law 2974/2001 A’ 293).

The provisions of these conventions and of the regulations by authorization issued remain in force if they are not amended with regulations issued according to the present law while the force of this law doesn't affect the application of other provisions which regulate issues of employment time of crew working on ships of special categories.

The Article Ninth stipulates that the force of this law starts with its publication in the Government Gazette and the force of the ratified Convention after the completion of the preconditions of its VIII article.

3.2. NATIONAL REGULATION AND LEGISLATION

The aforementioned Law 4078/2013 entered into force for our country on the 4th of January 2014 and according to the provisions of the article third of it the following decisions were issued:

- a) No. 3522.2/08/2013 Common Ministerial Decision (B’ 1671) and
- b) No. 4113.305/01/2013 Common Ministerial Decision (B’ 1553),

with which Regulations for the implementation of the requirements of the Convention, including both Flag and Port State obligations, have been approved and entered into force according to the provisions of their second Article.

**3.2.1 COMMON MINISTERIAL DECISION NO.3522.2/08/2013 (B 1671)
“REGULATION ON THE IMPLEMENTATION OF THE REQUIREMENTS OF
THE MARITIME LABOUR CONVENTION 2006 OF I.L.O.”.**

This Common Ministerial Decision consists of two articles.

The Article First which includes the Regulation (hereafter National Regulation) on the implementation of the M.L.C. 2006 and

The Article Second which includes provisions regarding the implementation and the entry into force of the National Regulation.

The National Regulation consists of 31 articles which -except for the article 1- are divided in five chapters in accordance with the five areas of the Code of the MLC 2006.

The article 1 describes the meaning of terms which must be taken into account for the implementation of this National Regulation the most important of which are the following:

Convention means the M.L.C. 2006 and the requirements of the Convention are these of the Articles and Regulations and the Part A' of the code of the M.L.C. 2006.

Ship means any ship with Greek flag other than one which navigates exclusively in:

-Lakes, rivers, canals or

-Ports including the marine areas within which they anchorage ships that are to be served by the port nearby them. Especially, for the port of Piraeus it is the marine area along the coasts of Attica until Isthmia and Vouliagmeni or

-In port accesses until three nautical miles from their entrance point or

-Among ports or among continuous bays in a distance that does not exceed the six nautical miles.

The Regulation has application to seafarers employed on ships, within the above context except of ships engaged in fishing or similar pursuits activities,

such as fish farming support ships, those characterized as traditional in accordance with Common Ministerial Decision 4113.203/01/13-09-2005 (B' 1281) and warships or naval auxiliaries.

Seafarer means any person who is employed or engaged or works and is hired under any capacity on board a ship to which the National Regulation applies except for the cases of people that work on board the vessel for their account like pilots, port workers, inspectors, armed private guards and repair technicians.⁵⁵

In the event of doubt as to whether this National Regulation applies to a ship or to a particular category of ships and in the event of doubt as to whether any category of persons are to be regarded as seafarers the issue is regulated by the Seamen's Labour Directorate in cooperation with other Directorates of the Ministry of Maritime Affairs and after consultation with ship-owners' and seafarers' organizations.

Ship-owner means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on ship-owners in accordance with the Convention, regardless of whether any other organization or persons fulfill certain of the duties or responsibilities on behalf of the ship-owner. It is commendable the fact that the National Regulation maintains the vast meaning of the term as this is defined by the Convention and in this way it ensures an easier way of identification of the entity which brings full responsibility on issues addressed by the National Regulation for ships with Greek flag that sail either within national or international waters.

⁵⁵Circular of Ministry of Shipping, Maritime Affairs and the Aegean with Ref. No.: 3527.1.2/01/2013 and Subject: "Implementation of the requirements of the Maritime Labour Convention, 2006 (MLC, 2006) of the International Labour Organization (ILO)". Par. D.1.: "..... Persons who are on board and work or are occupied for its account, such as armed private guards, pilots, port workers, inspectors, repair technicians/work group staff are not to be considered seafarers for the purpose of the implementation of the requirements of the Convention".

Passenger ship means any ship that transfers more than twelve passengers.

Cargo ship means any not passenger ship.

The other articles are divided in five chapters.

Chapter A “Minimum requirements for seafarers to work on a ship” :

- Article 2_“Minimum age”,
- Article 3 “Medical certificate”,
- Article 4 “Training and qualifications”
- Article 5 “Recruitment and placement’

Chapter B “Conditions of employment”:

- Article 6 “Employment agreement”
- Article 7 “Seafarers’ wages ”
- Article 8 “Hours of work and hours of rest”
- Article 9 “Entitlement to leave”
- Article 10 “Seafarers’ repatriation”
- Article 11 “Manning levels”
- Article 12 “Career, skill development and opportunities for seafarers’ employment”.

Chapter C “Accommodation, recreational facilities, food and catering”

- Article 13 “Field of application and general provisions”
- Article 14 “General requirements”
- Article 15 “Ventilation, aeration, heating and air conditioning”
- Article 16 “Sleeping rooms”
- Article 17 “Size and sleeping rooms’ equipment”
- Article 18 “Food accommodation”
- Article 19 “Kitchens”
- Article 20 “Sanitary accommodation”
- Article 21 “Hospital accommodation”
- Article 22 “Means of washing”
- Article 23 “Recreational facilities”

- Article 24 “Cleanliness and hygiene”
- Article 25 “Registration of ships with other flag”
- Article 26 “Seafarers’ food and catering”

Chapter D “Health protection, medical care, welfare”

- Article 27 “Medical care ashore and on board ship”
- Article 28 “Ship-owners’ responsibility”
- Article 29 “Health and safety protection and accident prevention”
- Article 30 “Access to recreational facilities ashore”

Chapter E “Compliance and Enforcement”

- Article 31 “Maritime Labour Certification and Declaration of Maritime Labour Compliance”.
- Article 32 “Terms, form and force of the Maritime Labour Certification and Declaration of Maritime Labour Compliance”.

3.2.2. COMMON MINISTERIAL DECISION NO. 4113.305/01/2013 (B’ 1553) “REGULATIONS ON THE IMPLEMENTATION OF THE M.L.C. 2006 REQUIREMENTS-FLAG STATE’S AND PORT STATE’S OBLIGATIONS”.

This Common Ministerial Decision introduces five Regulations on the implementation of the requirements of the M.L.C.’s 2006 and on the obligations of the Flag State and the Port State too.

For the implementation of these Regulations the terms Convention, ship, seafarer, ship-owner have the same meaning as in the National Regulation of the Common Ministerial Decision 3522.2/08/2013.

Regulation 1 “Seamen’ labour inspectors”

This Regulation defines that the Competent Authority, which is the Directorate of Inspection and Administration of Ships and Port Facilities’ Safety, has to

implement an inspection system for the ships' certification in accordance with the Regulation 5.1.3. and the Standard A5.1.3. of the Convention and designates that seamen inspectors can be:

-Officers of Hellenic Coast Guard graduate by the Faculty of Cadets officers of Hellenic Coast Guard.

-Technician Officers of Hellenic Coast Guard.

-Officers of Hellenic Coast Guard graduate by the Faculty of Cadets non-Commissioned Officers of Hellenic Coast Guard.

-Civil servants of the Ministry of Maritime Affairs.

It also addresses the inspectors' rights, freedom and obligations during the performance of their duties and it clarifies that each one who impairs the inspectors' task performance is punished with the sanctions of the article 45 of the Code of Public marine Law.

Regulation 2 "Inspection and Compliance"

It stipulates that Port Authorities and officers of the Hellenic Coast Guard who work in Consular Authorities control, according to the Ministry of Maritime Affairs' instructions, the compliance with the requirements of the national law on the Convention's implementation and they verify that all the measures in relation to seafarers' working and living conditions – including those of the Declaration of Compliance (when it required) are implemented. It also defines that the Maritime Labour Certificate along with Declaration of Compliance consist prima face evidence that a ship has been duly inspected and the Convention's requirements are satisfied.

Regulation 3 "Authorization of Recognized Organizations"

The third Regulation defines that an organization can be authorized by the Flag State to conduct the provided by the Convention inspections/verifications with purpose:

- The issuance/approval/renewing of the Maritime Labour Certificate,

- The inspection for issuance and the issuance of the interim one
- The certification of the Part II of the Declaration of Compliance with the Maritime Labour and the issuance of the Declaration of Compliance,
- The restitution of deficiencies with the presupposition the terms and criteria of this regulation to be satisfied.

The qualifications and the training of Recognized Organizations' inspectors cannot be inferior to the corresponding qualifications of the inspectors of the Competent Authority while an R.O. cannot be under the control of ship-owners or shipyard-owners or others who develop commercial activity within the sector of construction, equipment, repair or operation of ships.

The regulation also includes the text that must be entailed in the bilateral agreement of authorization.

Regulations 4 and 5: Port State Control and ashore complaint procedures

The forth Regulation is referred to the potential of inspections' conduct according to the Regulation 5.2.1. and the Standard A.5.2.1. of the Convention on vessels with foreign flag which arrive in a Greek port while the fifth Regulation is referred to the right of seafarers of these ships (with foreign flag) to submit complaints in the Port Authority in case they claim violation of the Convention's requirements.

Regulation 6: Inspection costs and fees

The last regulation details the costs and fees concerning the inspections which must be paid by the ship-owner -in case of inspection conducted by an inspector of the Competent Authority – or by the R.O. accordingly.

3.3. NATIONAL PROVISIONS FOR SEAFARERS EMPLOYMENT AGREEMENTS

The employment agreements of seafarers who employ on board cargo and passenger coastal ships with Greek flag are regulated by the National Regulation and other national provisions which are found in national codes, ministerial decisions and collective bargaining agreements. The most substantial provisions are the ones mentioned below:

3.3.1. PROVISIONS FOR SEAFARERS EMPLOYMENT AGREEMENTS (S.E.A.) ACCORDING TO THE ARTICLE 6 OF THE NATIONAL REGULATION OF THE COMMON MINISTERIAL DECISION N. 3522.2./08/2013

According to this article all seafarers who are employed in a vessel with Greek flag must have a written agreement which stipulates with clarity the terms and conditions for their employment and which produces legal results. It shall be consistent with the standards set out in the Code.

A S.E.A. is signed by the seafarer and the ship-owner or a representative of him or the master of the ship.⁵⁶ The whole procedure is completed with the recording of the agreement in the ship's Book of Employment and in the seafarer's nautical booklet by the master if the ship travels or by the port authority if the ship has arrived in a port where it remains for more than 48 hours. Each of contracting parties who have signed the S.E.A. takes a signed original of it.

A SEA is regarded that includes terms of any relevant C.B.A. which is in force. If terms of a C.B.A. form all or part of the S.E.A. then a copy of this C.B.A. shall be available on board ship. In case there isn't a C.B.A., the terms of the

⁵⁶ Circular of Ministry of Shipping, Maritime Affairs and the Aegean with Ref. No.: 3527.1.2/01/2013 and Subject: "Implementation of the requirements of the Maritime Labour Convention, 2006 (MLC, 2006) of the International Labour Organization (ILO)". Par.D4 ".Except for cases where the ship-owner or the master, acting on his/her behalf according to the national legislation, any other party contracting with the seafarer should be able to provide documentation showing that he/she is authorized to represent the ship-owner."

employment are freely agreed by the parties and they are registered within the pages of the SEA.⁵⁷

Before the signing of the S.E.A., the seafarer has the right to examine and ask advice on the terms and conditions of the agreement and freely accepts them before signing.

The ship-owner shall ensure that all seafarers and the master have on board the vessel direct access to any piece of information related to their employments circumstances. This information and a copy of their agreement shall be at port or consular or any other competent authority's disposal in any port of approach for inspection (if so required).

If the language of the S.E.A. and of any C.B.A. in force is other than the English, the following shall be in English:

-A copy of the employment agreement.

-The portions of the C.B.A. which are subject to port state inspection according to the Regulation 5.2. of the Convention.

The above term for the language does not implement on ships that travel only among Greek ports.

S.E.A.s shall in all cases contain the following particulars:

(a) The seafarer's full name, date of birth or age, and birthplace and in case of Greek seafarer his/her periphery and the number of the registration,

(b) The ship-owner's name and address or of his/her representative or the full name of the master,

⁵⁷ Circular of Ministry of Shipping, Maritime Affairs and the Aegean with Ref. No.: 3527.1.2/01/2013 and Subject: "Implementation of the requirements of the Maritime Labour Convention, 2006 (MLC, 2006) of the International Labour Organization (ILO)". Par.D4 "In this context, if mutually agreed by the contracting parties, there may be made explicit reference, partially or on the whole, to terms of a previously applicable Collective Bargaining Agreement that has expired and a relevant entry shall be made to the appropriate fields of the SEA. Notwithstanding, by such an entry it shall not be considered that the Collective Bargaining Agreement which has expired is generally brought back into force, since the aforementioned are only binding the contracting parties. "

(c) The place where and date when the seafarers' employment agreement is entered into,

(d) The capacity in which the seafarer is to be employed,

(e) The amount of the seafarer's wages or, where applicable, the formula used for calculating them,

(f) The amount of paid annual leave or, where applicable, the formula used for calculating it,

(g) The termination of the agreement and the conditions thereof, including:

(i) If the agreement has been made for an indefinite period, the conditions entitling either party to terminate it, as well as the required notice period, which shall not be less for the ship-owner than for the seafarer;

(ii) If the agreement has been made for a definite period, the date fixed for its expiry and

(iii) If the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the seafarer should be discharged, which time cannot be earlier of the unload ,

(h) The health and social security protection benefits to be provided to the seafarer by the ship-owner,

(i) The seafarer's entitlement to repatriation,

(j) Reference to the C.B.A., if applicable,

(k) The name, type and number of registry of the ship, its tonnage and its call sign and

(l) Any additional terms if agreed by the parties.

After the end of the employment period, the seafarer takes a record document which include some basic elements related to the period of his/her employment on board such as full name, age, date of birth of the seafarer, ship's identification data, the period of the employment, the capacity, any certificate of competency

and any other element common agreed by the parties. This document shall not entail any commend concerning the quality of the seafarer's employment or concerning his/her wage, it is written in English and in Greek and signed by the seafarer and the master without being inspected by the port authority.

The minimum notice period for justified early termination of an agreement of indefinite period by the seafarer or the master shall not be shorter than seven days. The termination takes place after this period and after the arrival of the ship to a port.

Except for the cases of force majeure or other reasons that mean automatic solution of the agreement, including the loss of the ship, expulsion of the Greek flag, the sale in public auction:

- The ship-owner or his/her representative or the master can defy the time limit for termination of the agreement in case of serious violation by seafarer of his/her duties.
- The seafarer can defy the time limit for termination of the agreement in case of serious violation by the master or the ship-owner against him/her.

Also, a seafarer can terminate the agreement within a notice period shorter than seven days or without notice for emergency reasons which are related to the health of a family member. The ship-owner –without adverse consequences for the seafarer- takes into consideration other cases of termination of the agreement by the seafarer within a notice period shorter than seven days or without notice for reason connected with the understanding of his/her problem.

3.3.2. PROVISIONS FOR THE TERMINATION OF THE EMPLOYMENT AGREEMENTS ACCORDING TO THE CODE OF PRIVATE MARITIME LAW

The S.E.A.s that are signed for the composition of the crews of ships that fly the Greek flag are also regulated by the Code of Private Maritime Law as ratified by the law n. 3816/1958 (A' 1958) and as it has been amended and remains in force. The most important provisions of this Code are the following:

Article 68 "Automated solution of the agreement"

Each employment agreement is automatically terminated in the following cases:

- Loss of the vessel
- Expulsion of the Greek flag
- Sale of the ship in public auction.

Article 69 "Termination of the agreement by the master"

The master has the right to automatically terminate the agreement in case of

- Inability of the ship to sale
- Illegal absence of the seafarer

Article 70 "Employment Agreement"

If an employment agreement signed for a definite period expires during the sail its force is extended until the arrival of the ship to the port of destination.

Article 71 "Employment Agreement"

An employment agreement signed for a voyage is terminated with the unloading (of cargo and passengers) in the port of destination. The meaning of the voyage concludes the backhaul voyage too and in case of ships that follow a regular line they conclude the sail with the unloading of the ship in the port where the seafarer had been hired.

Article 72 "Termination of the employment agreement by the master"

An employment can be terminated in any time after denunciation by the master without being obliged to meet a time line.

Article 73 "Termination of the employment agreement by the seafarer"

« An employment agreement of indefinite time can be terminated with denunciation by the seafarer after a period of nine months by its signing. If the port of destination is out of the Mediterranean Sea, the Red Sea, the Europe and the Persian Gulf, the agreement can be terminated by the seafarer with denunciation after a period of eleven months. The termination of the agreement is feasible after a period of the denunciation which cannot be shorter than seven days being extended until the arrival of the ship to a port.

If the ship is in Greek port, the seafarer has the right to denunciate the agreement even before the completion of the aforementioned time periods of nine and eleven months.

An employment agreement of indefinite time denounced according the first paragraph of this article is extended if the port of destination is out the Mediterranean Sea, Red Sea, Persian Gulf and Europe until one month so as a replacer of the seafarer, who makes the denunciation, to be found.

Article 74 "Termination of the employment agreement by the seafarer"

An employment agreement of definite or indefinite period can be terminated by the seafarer in any time if the master commits a serious violation of his/her duties against the seafarer.

Article 75 "Compensation of seafarers"

"The seafarer is entitled to compensation in case the employment agreement is terminated because of the reasons of the article 68 and because of vessel's inability to sail (according the article 9). Compensation is also due in the case of the article 74.

If the employment agreement is terminated because of loss of the ship or shipwreck the seafarer is entitled to choose between wages of two months (article 62) or the compensation of the present article.

If the employment agreement is terminated according to the provisions of the article 72 the seafarer is entitled to compensation unless the termination is due to his/her offense.

Article 76 “Compensation of seafarers”

The compensation of the previous article is equal to a wage of fifteen days. If the termination of the agreement took place abroad, the compensation doubles if the ship was in a port of the Mediterranean Sea, the Black Sea, the Red Sea or the Europe while in case of any other port aboard the compensation triples.

Article 77 “Compensation of seafarers’

If the termination of the employment agreement is caused by seizure of the ship or sale of it to public auction or inability of the ship to sail or laying up of it for at least fifteen days, the compensation of the previous article is diminished by half but never lower than an amount equal to wage of fifteen days.

Article 82 “Employment agreement”

Disagreements between the parties due to the employment agreement are tried according to labour disputes processes.

The article Second of the Common Ministerial Decision n.3522.2/08/2013 (B’ 1671/13) stipulates that the provisions of the National Regulation from the time they get in force amend the provisions of the current legislation which regulates same issues in relation to ships and seafarers of the article 1 of the National Regulation except for the provisions that ensure more favorable conditions for seafarers. In this regard, the national provisions of the Code of Private Maritime Law, of any C.B.A.⁵⁸ and of any other national legislation, which might be in

⁵⁸In article 25 of the C.B.A. of the crews of the coastal passenger ships year 2019 (Ministerial Decision No. 2242.5-1.5/56040/2019) is clarified that all the S.E.As shall

force, are taken into account by the port authority in any case that arises in relation to a S.E.A. but always in conjunction with the provisions of the article 6 of the National Requirement.

3.4. NATIONAL PROVISIONS FOR SEAFARERS' WAGES

3.4.1. *PROVISIONS ACCORDING TO THE ARTICLE 7 OF THE NATIONAL REGULATION.*

According to this article, payments due to seafarers working on ships with Greek flag are made at intervals no greater than monthly and in accordance with their S.E.A. and the terms of any applicable C.B.A.

Seafarers receive a monthly account of the payments due and the amounts paid, including wages, additional payments and the rate of exchange used where payment has been made in a currency or at a rate different from the one agreed to.

Ship-owners are required to take measures so as to provide seafarers with a means to transmit all or part of their earnings to their families or dependants or legal beneficiaries. These means at least shall include:

(a) A system for enabling seafarers to give, if they so desire, a proportion of their wages to their families at regular intervals by bank transfers or similar means and

(b) that these amounts shall be remitted in due time and directly to the person/s nominated by the seafarers.

One of the most important national provisions is this of the par. 4A of this article which requires by ship-owners to take measures so as to provide to seafarers of ships that make domestic voyages a system for deposit of their earnings, included any payment in advance, exclusively to the bank accounts of the

be of indefinite time. This is an example of a national provision that ensures more favorable conditions for seafarers.

beneficiaries⁵⁹. In this way the compliance of the ship-owners with their duty to pay due remunerations in a monthly basis can be effectively controlled by the port authority and cases of financial exploitation to be substantially reduced.

With master's care an archive with details and records related to the wages' payment is maintained on board the vessel so as to be at the port authority's disposal during an inspection (e.g. monthly payments and bank depositories).

3.4.2. NATIONAL PROVISIONS FOR SEAFARERS' WAGES ACCORDING TO THE CODE OF PRIVATE MARITIME LAW

Seafarers' wages are supplementary regulated by the provisions of the Code of Private Maritime Law too. These substantial provisions which in tandem with the provisions of the article 7 of the National Regulations protect seafarers by financial abuse and payment problems are the following:

Article 60 "Seafarers' payments"

It is provided that seafarers are entitled to the wages of the months and days that their employment lasted. If the employment lasted less than a month, the seafarer is entitled one whole monthly wage while as complete day is regarded and the day that has just started.

Article 61 "Seafarers' payments"

This is one more important provision according to which in case of a S.E.A. arranged for one voyage if this voyage is extended so does the wage too, while if the voyage lasts less than the expected, the wage remains irreducible.

⁵⁹ This provision consist an amendment of the article 7 of the National which has been added with the Common Ministerial Decision n.2242.7.-2.1/13960/2018 (B' 783/2018).

Article 62 “Seafarers’ payments”

In case of shipwreck, the seafarer is entitled wage for the days employed as an accomplice to rescue of him, the passengers and the cargo and in addition to this hi/she is also entitled to wages of two months if he/she didn’t manage to be employed somewhere else.

3.4.3. SUPPLEMENTARY PROVISIONS OF THE C.B.A.s.

One more important provision is this of the article 10 of the C.B.A. for the Crews of Coastal Passenger Ships, which stipulates that the payment of the wages and any other remuneration takes place in the end each calendar month. Otherwise, seafarers are entitled to denunciate the agreement according to the provisions of the article 74 of the Code of Private Marine law namely due to serious violation of the master against the seafarer.

After the completion of 15 days of employment, seafarer is entitled to ask payment in advance and after the pay-off a copy of the salary account must be given to each crew member.

3.5. NATIONAL PROVISIONS FOR HOURS OF WORK AND HOURS OF REST

3.5.1. PROVISIONS OF THE ARTICLE 8 OF THE NATIONAL REGULATION

This article regulates issues in relation to the hours of work and rest of seafarers on board the ship, subject to the requirements of the legislation for the implementation of the International Convention S.T.C.W. and of this on maximum time of work for crews of Passenger and of RO-PAX high speed crafts that make domestic voyages according the I.M.O.’S Code of High Speed Crafts (HSC) or the Code of Dynamically Supported Crafts (DSC).

For the purpose of this article, the term:

(a) **hours of work** means time during which seafarers are required to do work on account of the ship and

(b) **hours of rest** means time outside hours of work. This term does not include short breaks.

The normal working hours standard for seafarers is the working day of eight hours with one day of rest per week and with rest the public holydays.

The limits of the hours of rest are:

(a) ten (10) hours within any period of twenty four (24) hours and

(b) seventy seven (77) hours within any period of seven (7) days.

These periods of rest cannot be divided in periods more than two, one of which must last at least six (6) hours, while the distance between successive periods of rest cannot be greater than fourteen (14) hours.

The adherence of the master and ship-owner to this rest schedule consist of one of the most important objects of inspection by the port authorities in our country, mainly in cases of coastal passenger ships and cargo also that make domestic voyages under strict itineraries which demand a lot of working hours during a day caused by the big number of ports of destination along the coastline.

Exceptions of these time limits are allowed to be defined by C.B.A.s. These exceptions must adhere to the standards as much as possible but they can take into account more recent or bigger periods of leave or to provide the granting of compensatory leave for seafarers who participate to bridge or engine watch keeping or for seafarers who work on ships that make short term voyages.

The programmed drills on board the ship must be conducted in a way that the interruption of the hours of rest and the subsequent fatigue are minimized. When a seafarer is on call, such as when a machinery space is unattended, the seafarer shall have an adequate compensatory rest period if the normal period of rest is disturbed by call-outs to work. In case of interruption of the rest hours for the above mentioned reasons, and if the issue is not regulated in a different way by any current collective bargaining agreement, a sufficient compensatory period of rest is given within a period of one (01) month.

It is required the posting, of a table with the shipboard working arrangements, which shall contain for every position at least:

- (a) The schedule of service at sea and service in port and
- (b) the maximum hours of work or the minimum hours of rest required by national laws or regulations or applicable collective agreements.

This table shall be posted in an easily accessible place and shall be according to the pattern designated by the Appendix C' written both in Greek and English. (look **Appendix C'**).

Also, with master's care a record of hours of rest is kept up on board for a period at least of one month and it is to port authority's disposal for inspection of the compliance with the provisions of this article. A personal record with the hours of rest for each seafarer must be completed and signed by the seafarer and the master or a delegated by the master officer. This record of hours of rest must be written both in Greek and English and in accordance with the pattern of the Appendix D (look **Appendix D**). Seafarers are given a copy of their personal record.

If a ship travels in regions with different local time, then the hours of rest are registered in the coordinated u.t.c.

Of course, nothing can impair the right of the master to require a seafarer to perform any hours of work necessary for the immediate safety of the ship, persons on board or cargo, or for the purpose of giving assistance to other ships or persons in distress at sea. Accordingly, the master may suspend the schedule of hours of work or hours of rest and require a seafarer to perform any hours of work necessary until the normal situation has been restored. As soon as practicable after the normal situation has been restored, the master shall ensure that any seafarers who have performed work in a scheduled rest period are provided with an adequate period of rest. In this case of interruption a relevant comment must be registered into the appropriate column of the records of hours of rest.

Seafarers that are certified by a qualified doctor that they have health problems due to night work are transferred to work during the day and ship-owners have to give information concerning crew members who work during the night if so they asked by the port authority.

As far as is concerned the hours of work and rest, the intervals and the exceptions in case of emergency of seafarers of age younger than eighteen (18) the issues are regulated by the Presidential Decree 407/2001 “measures for the protection of young seafarers who employ in the shipping of fishing sector ”.

Ship-owners must take all the measures including the granting to the master of any necessary source that will help him to comply with the provisions of this article. Masters must take all necessary measures for the implementation of the requirements of this article and they collaborate with ship-owners for this purpose. Mainly, masters take care for the arrangement of the watch keeping system in a way that seafarers’ effectiveness not being affected by fatigue. They also arrange seafarers’ duties so as crew members that undertake the watch keeping at the time of ship’s departure and the personnel that undertakes the subsequent watch keeping to have taken sufficient period of rest and to be able to meet their duties.

A copy of the article 8 of the National Regulation and one of any current C.B.A. must be on board so as to be easily accessible to crew members.

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CHAPTER 4: CONDUCT OF INSPECTIONS BY THE HELLENIC PORT AUTHORITY IN GREEK CARGO AND COASTAL PASSENGER VESSELS THAT MAKE DOMESTIC VOYAGES

4.1. CONDUCT OF REGULAR AND IRREGULAR INSPECTIONS BY THE PORT AUTHORITY

In our country, Port Authorities conduct periodical inspections on cargo and passenger coastal vessels with Greek flag that make domestic voyages in order to verify the compliance with the National Laws and Regulations issued for the implementation of the M.L.C. 2006.

The conduct of these inspections target to

- The verification that ship-owners have taken all necessary measures for the assurance of seafarers' better working and living conditions on board the vessel,
- The prevention of any non compliance that would lead to the raising of complaints by seafarers and/or even worse to serious for the safety and security hazards.

Except of the scheduled inspections, Greek Port Authorities are called to make irregular inspections that result from the submission of a complaint by a seafarer or team of seafarers or after a denunciation by a seafarers' union.

These inspections are more demanding than the periodical ones since they can arise at any time during the day calling the personnel of the Port Authority that conduct M.L.C. 2006 inspections to respond immediately even if this equals to interruption of their other daily office and/or port duties or to personnel recall in night hours.

4.2. INSPECTORS' CHARACTERISTICS

First and foremost, inspectors have to be extremely experienced, well prepared and ready to meet their duties keeping in their mind that an emergent inspection may arise any time during the day.

Inspectors may lack time for preparation. This is very frequent in the case of passenger ships that make coastal sails based on strict itineraries where any unjustified delay equals to sanctions against ship-owners. Throughout a day, passenger ships approach a series of ports and serve thousands of passengers in remote places where the sea connection is of great importance. Thus any kind of delay due to lack of inspector's preparedness and knowledge is unacceptable.

Inspectors enjoy complete independence during the performance of their duties and they have the power at least to freely embark on board the vessel, conduct any kind of examination, trial or research which they deem necessary for their inspection on standards' satisfaction, to require deficiencies' restitution and when they regard that these deficiencies consist serious violation of the Convention's requirements- including seafarers' rights- or they representative serious hazard for seafarers' safety, health, or security to impose ship detention until the completion of all the restitution actions.⁶⁰

Inspectors have to perform their duties following some basic principles of conduct. They have to show impartiality and objectivity. They are prohibited from having a direct or indirect interest in any work they are called upon to inspect and they have to keep confidential any source of complaints claiming hazard or deficiency on working and living conditions or violation of laws and regulations without permitting the ship-owner to have suspicions that the inspection results from this complaint.

They have to be resilient and listen actively both parties in case of disagreements between ship-owner and seafarer/rers or ship-master and seafarer/ers and keep in their mind any reliable information. They have to be

⁶⁰ Regulation 1 of the n. 4113.305/01/2013 Common Ministerial Decision

conciliatory with them and gentle but firm in their views without signs of uncertainty and doubt. They have to give comprehensive, concise and articulate responses to any kind of questions or disputes expressed by interested parties but without feeling the need to apologize about their decisions.

They need to be patient and calm and not over-sensitive and aggressive. An inspection may last even a period of more than ten hours and for this reasons inspectors have to be rested and ready to stand the long hour and demanding procedure. Often, long term inspections happen in case of passenger ships with numerous crew members where only the interviewing of seafarers demands long time or in case of inspections of more than one ship in series if the complaint is related to more than one ship belonged either to the same company or to different ones⁶¹.

4.3. COMPLAINTS' HANDLING PROCEDURES ON BOARD THE VESSEL AND ASHORE

The Port Authority, any time accepts complaints obviously valid and reliable has the power and the obligation to carry out a thorough inspection so as to invest the issue and to take care that the deficiencies' restitution actions have been undertaken by the obliged persons, irrespectively of the imposition of any legal sanctions.

As complaint is described any denunciation expressed by one or more seafarers with which they allege violation of the provisions of the National Laws and/or Regulations that are related to the implementation of the M.L.C. 2006. Complaints are submitted to the Port Authority (or to the Directorate of Marine Labour) either directly by a seafarer or a team of seafarers or by their unions, orally (in person or by phone) or in writing (e-mail, report, e.t.c.).

According to the article 33 of the National Regulation, ship-owners are responsible their ships to have appropriate procedures for the handling and solution of the expressed complaints on board the vessel. The lower crew and

⁶¹ For example a complaint might be related to the passenger coastal ships of a specific coastal line (e.g. Piraeus-islands of Saronic Bay)

the inferior officers when they desire to submit complaint they have to address the Officer of their ship Department and the Officers of the Departments call on directly the Master. For example an oiler has to submit complaint to the First engineer and the latter has to call on the Master. The Officers of the Department taking into account the content of the complaint and any other important piece of information, explanations or necessary elements gathered by themselves, they try to handle and solve the issue within a period of twenty four (24) hours or if the current circumstances on board the vessel or an emergent event doesn't permit the direct solution of it, as soon as possible after the restitution of the normal circumstances of activation.

But, if they don't manage to successively handle the problem they have to report the issue to the Master so as the latter handle it while seafarers are entitled to present themselves in front on the master only within the time frame defined by the master or in extreme occasions at any time.

Seafarers during the complaint submission can be escorted by another crew member of their choice.

Complaints and related decisions are recorded in a special file kept on board the ship and maintained there at least for one year. A copy of the record is given to the ship-owner and to the interested seafarer if he/she asks it.

Any complaint that cannot be addressed on board the vessel is reported with master's care to the ship-owner who undertakes the solution of the problem as soon as possible but not later than fifteen days in consultation (if required) with the seafarer or any other person defined as representative by the seafarer.

The person who is obliged to examine the complaint can refer the complainant to another seafarer on board the vessel who can consult him on the procedures

All the above procedures don't affect seafarers' right to make complaints directly to the shipmaster or to the competent authorities but in this case the shipmaster or the authorities can ask by the complainant to follow the provided procedures. Also, they don't affect seafarers' right to seek restitution through other legal means that they deem appropriate.

In any case, the imposition of any sanction or the adverse treatment of the complainant is forbidden, except for the case of obviously malicious complaints or complaints done willfully.

Ship-owners and shipmasters shall give seafarers a copy of the procedures applied on board the vessel which additionally includes contact details with the Seamen's Labour Directorate in our country and if the country of residence is other than Greece contact details with the Competent Authority of this country. The copy also includes the name of person/s on board the vessel who can and wants to provide seafarers in a confidential basis impartial advice on complaints' handling issues.

In practice, besides this procedure followed on board the vessel, in Greek ports seafarers of cargo and passenger coastal ships with Greek flag, in most of the cases, chose to submit their complaints ashore directly or after having followed or tried to follow the typical on board procedure calling on the local Port Authority or the Competent Authority of the Ministry of Maritime Affairs or their Union for contribution.

4.4. DESCRIPTION OF THE PROCESSES FOLLOWED BY THE PERSONNEL OF THE PORT AUTHORITY.

4.4.1. PRE-BOARDING PREPARATION.

The need for M.L.C. 2006 inspection might arise at any time during a day and therefore the personnel of the Port Authority engaged in the conduct of M.L.C. 2006 inspections on vessels with Greek flag has to be in readiness at any time.

As has already been mentioned, inspections might be periodical with Port Authority's initiative or unscheduled after the acceptance of a complaint. The islands and the seaside areas of our Country are mainly served by cargo and passenger ships which depart from big central ports and approach smaller regional ones and vice versa developing a dense transport network and offering interconnection throughout the whole day and night. The need for interconnection and for a reliable transport network that assures direct and safe

travelling services without delays becomes more intense during the summer season.

Thereafter, there is strong need of an inspection system for compliance and enforcement on maritime labour standards for the prevention of reasons that would harm the seamless operation of the coastal transport network.

The personnel of the local Port Authority who is going to inspect a vessel has to make a preparation which includes at least the following:

-Thorough examination of:

- the vessel's file which is maintained in Port Authority's Department of Employment so as to know in advance important details concerning the basic characteristics of the ship, like G.T. and the required level manning.
- the route the ship follows, the number of ports that approaches during a day and the time of arrival and departure by each port.
- the results of previous inspections of the specific ship.
- the degree of restitution of any violations reported in the past. Are there any deficiencies not addressed by the ship-owner yet?
- Labour issues that often arise by the operation of this ship. What kind of complaints had been submitted in the past, by who crew members, how often, how was the disagreements handled and with what results?

- Watchful study of the current legislation. The senior inspector of the team has to be sure that all the involved persons have deep knowledge and comprehension of the legislation (National Regulation, laws, C.B.A.s, exceptions, equivalents e.t.c.). Personnel owe to have familiarization even with the most recent amendments.

- The selected members of the inspection team have to be characterized by impartiality and confidentiality while at least the senior officer must be very experienced. It would be preferable the inspectors have been rested but if this is not feasible the inspectors who will be selected must resist conducting long term inspections even tired.

- Preparation of the inspection files which includes all necessary copy of the relative legislation, questionnaires, papers, pencils and seals.
- Decision on the place of the inspection. At which port? Will it conduct on board the vessel while it remains in the port or while it travels?
- Decision on the time of the inspection.

4.4.2. THE CONDUCT OF THE INSPECTION ON BOARD THE VESSEL WITH EMPHASIS ON EMPLOYMENT AGREEMENTS, HOURS OF WORK AND REST AND WAGES

When the Port Authority receives a complaint which doesn't seem to be unfounded, it has to intervene directly meaning that if the ship is to approach the port within the following hours, the inspectors shall embark in the ship as soon as it arrives without firstly noting the master or the ship-owner. This is done to ensure that the inspectors will be able to inspect the actual conditions as they were at the time of the complaint submission.

The master of ship is informed some minutes before the arrival of the ship in the port, so as to not permit the departure of any seafarer by the ship.

During the inspection the only persons that can be also present are one representative of the shipping company (often the Commodore) and until two representatives of Labour Union/s whose member is the complainant seafarer/s⁶².

The inspectors and the shipmaster select the deck and place where the inspection procedure will start.

⁶² Article 144 of the Law 4504/2017: "Representatives of Labour Unions.....can, upon their request, with the consent of the Pan-Hellenic Maritime Federation be present during the inspection.....having observer status, for the promotion of seafarers' rights, if the inspection is due to a matter relating to the subject matter of the complaint....The representatives can notice and advice seafarers on their rights but they have to comply with the inspectors' suggestions without interfering with their work..... "

An inspection on board the vessel often is divided to the following steps:

1. Identification of crew members.

Each seafarer presents himself in front of the inspectors who identify him/her by examining seafarer's nautical booklet, the Book of employment and the current crew list. The nautical booklet constitutes the identity of the seafarer and includes personal photography that is used for the identification. The inspectors compare the photography with the seafarer, and assure that the employment record in the booklet is in accordance with this in the ship's Book of Employment as far as is concerned the capacity, the Date of inception of the employment and the identification data (name, surname, number of nautical book). The crew members included in the crew list of this day must be the same with these recorded in the Book of Employment while no one on board the vessel cannot be employed or engaged or works in any capacity without a relative registration having been made in seafarer's nautical book and in the ship's Book of Employment and relatively approved by the Port Authority.

Possible deficiencies that can be found at this stage are:

- Unjustified absence of a seafarer while his/her employment agreement has not expired or terminated and without having been replaced by another one. This is a very serious violation that can lead to seafarer's and shipmaster's arrest⁶³.
- Occupation of a seafarer on board the vessel without having been legally employed which, except for other criminal sanctions, equals to fine of 10.000 Euros against the ship-owner⁶⁴.

⁶³ According to the article 206 of the Code of the Public Maritime Law (Legislative Decree 187/1973) a crew member who absents from the ship unjustifiably as long as he/she had the obligation to perform and ordered service for the safety of the ship, passengers or cargo, is punished by imprisonment for up to six months while according the article 235 a shipmaster that doesn't report to the Port Authority the illegal absence of a seafarer is punished by imprisonment for up to six months.

⁶⁴ Article 40 of the Code of the Public Maritime Law as has been amended by the article 139 of the Law 4504/2017.

2. Documents review.

This stage of inspection requires a thorough examination of S.E.A.s in conjunction with any current C.B.A., the files of hours of rest, ship's log book, Overtime Book and the wages' relative archive.

Examination of S.E.As.

As far as is concerned the S.E.As the inspectors examine the following:

- If all seafarers that are listed in the current crew list and in the Book of Employment have signed an employment agreement,
- If they possess a copy of the agreement signed by both parties,
- If the S.E.As follow the appendix B' of the National Regulation,
- If the S.E.As are in force,
- If their terms are legal and in accordance with the provisions of the National Regulation (article 6)
- If terms of the current C.B.A. have been embodied within the S.E.As.

Possible deficiencies that can be found are:

- A seafarer working on board without having signed a S.E.A.
- A seafarer continuing to work on board with an expired S.E.A.
- S.E.As with terms inconsistent with the National requirements.
- There isn't on board a copy of the C.B.A. (in case that all or part of its terms is included in the S.E.A.s).
- Some terms of S.E.As violate seafarers' rights.
- S.E.A.s that doesn't define the exact wage amount of seafarers.
- S.E.As that have been signed for definite time whereas they should have been signed for indefinite time. All S.E.A.s of coastal passenger ships' crews have to be of indefinite time.
- A S.E.A that has been denounced by the seafarer more than seven days before the inspection day and the seafarer has not been replaced yet.

Examination of wages

The procedure followed by the inspectors to assure that payments are done in compliance with the national provisions consists of the following steps:

- The inspectors ask by the master all the payments sheets of wages and the relative bank deposits.
- They duly examine:
 - If the total amount of due payment (basic wage, overtime, allowances provided by the S.E.A and the C.B.A.) is the same with this referred in the bank deposit.
 - If the payment of the total due amount has been done in the end of the month.
 - If the amount of the basic wage referred in the payment sheet is the same with this referred in the S.E.A.
 - In case of overtime, inspectors have to duly compare the hours of overtime that result from the records in personal files of hours of rest⁶⁵, with the recorded hours of overtime in the Overtime' Book and with the records in the Deck Log Book so as to assure about the real overtime and afterwards to account the due payment. This a very complicated and long term procedure that requires deep experience taking into consideration that the way of account for the overtime during the weekends is different than this for the other days and that the final accounted due amount must be the right one. Any false equals to deficient payment of the seafarer.
 - The payments of holiday gifts that must be paid within the strict time limits stipulated by national provisions⁶⁶.

⁶⁵ They have to account how many more hours of work seafarers have done, after the daily completion of eight hours of work. e.g.: If a seafarer has worked 14 hours in a period of 24 hours is entitled 6 hours overtime.

⁶⁶ According to the article 100A of the Code of Public Maritime Code (L.D. 187/1973) seafarers are entitled to be paid by ship-owners holiday allowances which must be paid for the Christmas until the 21th December and for the Easter until the Big Wednesday. In case of non compliance besides any criminal and disciplinary sanctions **a fine of 1.000 Euros for each unpaid seafarer is imposed by the Port Authority against the ship-owner.**

➤ Payment of leaves and catering' allowances which must be paid when seafarer's employment agreement is terminated or in the 31th December of each year (if seafarer remains employed)⁶⁷.

➤ If the payment sheets analyze all the legal insurance deductions.

Examples of possible deficiencies:

- Unpaid seafarers.
- Payments not in accordance with the S.E.A and the Collective Bargaining Agreement.
- Payments that have been done in late.
- Unpaid overtime.
- Unpaid allowances.
- Seafarers who have not been given Payment sheets.
- Payments that have not been submitted to seafarer's bank account.
- The shipmaster doesn't maintain on board the vessel a file with all the relatives to crew's payments elements.
- Unpaid allotments or paid but not in accordance with the seafarer's instructions.

Examination of hours of work and rest

As far as is concerned the hours of work and rest the inspection is conducted in this way:

- Crew departments are examined in series. For example, the inspection can start with the examination of the deck department.
- Crew members of each department are divided in teams according to their capacity. This is done so as inspectors are able to examine the way in which tasks have been divided among crew members with the same capacity. For example, when there are twelve Able Seamen some of them they are

⁶⁷ Article 9 of the National Regulation and Article 15 par.4 of the Collective Bargaining Agreement for Coastal Passenger Ships (Ministerial Decision No 2242.5-1.5/56040/2019/ B' 3170).

occupied with their tasks while the others rest. Inspectors for making right conclusions and pinpoint any falsified records will need to thoroughly:

- Compare the Table of the Scheduled Daily Work Hours at Sea and in Port with the personal Files of Hours of Rest.
- Compare the records in the personal Files of Hours of Rest with the master's records in the ship's Deck Log Book. For example it is not normal the first engineer to be appeared in rest according to the records in his personal file of hours of rest during the time the ship, according to the records in the Deck Log Book, approaches a port⁶⁸.
- Examine if personal Files of Hours of Rest have been signed by the seafarers and the master or an authorized by the master person.
- Examine if these personal Files have been written in Greek and in English too and in accordance to the Appendix D'.
- Assure that a copy of the personal File has been given to the seafarer.
- Examine if the master maintains record with the hours of rest for time space at least of one month.
- Examine if the hours of work within a period of 24 hours exceed the 14.
- Examine if the hours of rest within a period of 24 hours are not less than 10 and within a period of 7 days not less than 77.
- Examine in how many spaces the 10 hours of rest have been divided since they cannot be divided in spaces more than two the one of which must last at least 6 hours and the interval between the periods of rest cannot last more than 14 hours.
- Examine, in case that there are more than 10 hours of rest, if there is at least one space of six hours of rest and one of 4.
- Examine if the Table of the scheduled daily work hours at sea and in port is posted in a conspicuous place on board.

⁶⁸ According to the article 72 "Duties at sea" of Royal Decree No. 683/04-10-1960 "Internal Service Regulation for Greek Passenger Ships of 500 G.T. and over": "The first engineer of any Greek passenger ship of 500 g.t. and over has to be present in the engine room during the departure and arrival in ports, canals, channels and in any other demanding passage or anchorage sea place and that his is fully responsible for the direct and accurate execution of bridge orders "

- Examine any comments added in the specific column of the files of hours of rest. If these comments refer to any deviation from the provided hours of rest, this deviation must be justifiable and in accordance with the masters' records in the Deck Log book⁶⁹ .
- Examine if a compensatory period of rest has been given to seafarer in case of justified interruption.

Possible deficiencies that can be found are:

- Records of hours of rest are not available and duly maintained by the master.
- Unsigned Files of Hours of Rest.
- A copy of the personal File of Hours of Rest has not been given to the interested seafarer.
- The Table of the scheduled daily work hours at sea and in port is not posted in a conspicuous place on board or even worse not posted anywhere.
- The hours of rest are not in accordance with the records in the Deck Log Book.
- Seafarers occupied for a period more than 14 hours in 24 hours period.
- Seafarers rested less than 10 hours in a 24 hours period or less than 77 hours within a period of seven days.
- Division of the hours of rest in spaces more than two without one of these lasts at least six hours.
- Comments for interruption of the hours of rest for reasons that are not proved by related records in the Deck Log Book.
- Presentation by the master of events not actually related to the immediate safety of the ship, the cargo and the passengers or to the assistance of another ship in stress, as an emergency one in order to justify an unjustified

⁶⁹ .e.g.: Interruption of the hours of rest for giving assistance to another ship. Inspectors have to examine the pages of the log book where the nature of the case, the when and where, the time it lasted, the persons who were occupied are described and thus assume if the interruption can be justified by this fact.

interruption of a seafarer/rs' period of rest. For example, often masters try to justify the long term daily operation of their ship, which equals to small period of rests, claiming weather reasons but this is not an emergent reason. The adaptation of the ship's speed to the usual fluctuations of the weather in the Greek seas constitutes a factor that ship-owners have to take into their account before the beginning of the ship's itineraries and before the final composition of the crew.

3. Visual observation.

At this stage, the inspectors observe seafarers to comprehend signs of excessive fatigue, stressor, anger or sadness that may denote potential working or financial abuse and lead to the need for further control. A seafarer who suffers from fatigue usually shows reduced alertness and difficulties of self-concentration which leads to scarce performance while their decision-making, problem-solving ability and judgment are significantly impaired.⁷⁰ They don't comprehend inspectors' questions and they don't respond simultaneously. A seafarer, that feels disappointed with his/her working environment because of lack of rest, or because of payment problems appears sad, irritable and susceptible to an emotional expression. In cases of anonymous complaints, the inspectors based on the right visual observation and making the appropriate questions can easily identify the complainant and help him/her to feel confidence, express his/her concerns and describe the real circumstances.

⁷⁰ I.M.O. MSC/Circ. 1014/12 June 2001 Ref. T2/4.2. "Guidance on Fatigue Mitigation and Management".

4. Interviews with seafarers in private.

The inspection procedure is completed with the interviewing of all seafarers or of a great number of them, in case some of them rest. Inspectors interview seafarers personally and in private.

Indicative questions that they make to seafarers are the following :

Concerning the S.E.A.s :

- Have you been informed of your rights and duties before or during recruitment?
- Were you given the opportunity to examine and seek advice and freely accept the agreement before signing?
- Have you received the signed original copy of the agreement?
- Are the duties undertaken by you in accordance with the capacity under which you have been employed?
- What are your duties? Are there any dangers for your safety and health resulted from them and what means of personal safety do you have to protect yourself?
- Do you receive the agreed paid annual? Are you allowed an appropriate level of shore leave by the ship-owner?
- Are you covered by the national social security system? Are mandatory contributions made?
- Do you have access to medical care services onboard without charge? Are you given leave to obtain medical care when calling in a port?
- Are the provisions of the current C.B.A. applied?
- Are the additional provisions included in the agreement mutually applied?

Concerning the wages

- Are you paid at intervals no greater than monthly?
- Are you fully paid for the work you offer?
- Is the overtime (in case there is) rightly being paid?
- Do you receive payment in advance when you ask it?
- Is there at your disposal a system that enables you to give, if you so desire, a proportion of your wage to your family at regular intervals by bank transfers or similar means?
- Are your earnings exclusively deposited to your bank accounts?
- Do you receive every month an account with your monthly wage and the relevant social security contributions?
- Do you have to complaint something about your payment?

Concerning the hours of work and rest

- How many hours during a period of 24 hours do you work?
- How many hours during a period of 23 hours do you rest and how the hours of rest are divided?
- How many hours during a period of seven days do you rest?
- Are the hours of rest registered into your personal File of Hours of Rest and signed by you the real ones?
- Is there any reason for which you feel constraint to sign falsified hours of rest?
- Are the working conditions decent? Do you think that the daily working schedule has a negative impact on them? Do you feel an unbearable fatigue after the completion of your daily duties?
- In an emergency case that leads to interruption of the hours of rest do you receive sufficient compensatory period of rest and when?
- Do you receive a copy of your personal file of hours of rest?
- Is there a person below the age of 16 employed/ engaged or working onboard?

- Is there a person below the age of 18 employed/ engaged or working onboard? If so, what are his/her duties? Does he/she work during night hours?
- Do you have to complaint something about the hours of work and rest?

General questions

- Do you consider that there is a sufficient number of seafarers employed onboard to ensure that the ship operates safely?
- Are you given a copy of the procedures on the on board complaint procedures that are applicable on the ship? Do you have the right to complain directly to the master and to appropriate external authorities? Is there victimization after a complaint?
- Do you have to complaint something about the working and living conditions on board the vessel?

4.4.3. PROCEDURES AFTER THE COMPLETION OF THE INSPECTION.

After the completion of the inspection, the inspectors and the competent Office of the Port Authority undertake to accomplish specific procedures:

Enforcement of sanctions

They have to decide about the sanctions that will enforce for any found deficiencies. Violators of the provisions of the National Regulation besides any other criminal or disciplinary sanctions are punished according to the article 45 of the Code of Public Maritime Code which provides for the enforcement by the Port Authority of fines of 300 Euros the minimum until 500.000 Euros. As far as is concerned the violation of the article 6 of the National Regulation (Hours of Work and Rest) the Port Authority imposes fines of 300 until 500 Euros for each seafarer of the crew. Obligated for the payment of these fines are in solidarity and in full the ship-owner, the manager, the bare boat charterer and the agent while the shipmaster is excluded in case that his/her responsibility is not ascertained and he/she has taken care to note the ship-owner in time.

Reporting

The Office of the Employment has to submit to the Seamen's Labour Directorate and to any other Competent Directorate of the Ministry of Shipping, Maritime Affairs and the Aegean a written report with the results of the inspection including any deficiencies found and the sanctions that the Port Authority has decided to impose.

It has to note in written the shipmaster and the shipping company about the results of the inspection and the imposed sanctions giving at the same time instructions and commands for direct restitution of the deficiencies defining a strict time frame for restitution.

It informs (in written) for the results of the inspection the seafarers' involved unions and also in cases of serious non conformities like incidents of due payments the Port Authority will report the incident to the local Prosecutor asking by him/her the provision of relative commands and instructions.

It is important to emphasize that when the inspectors believe that the deficiencies constitute serious violation of the Convention's Requirements or represent important hazard for the safety, the security or the health they can prohibit the vessel's departure until the restitution of the legality. Of course the detention of the ship is an ultimate solution and the inspectors must make every reasonable effort to avoid unjustified detention or delay of the ship.

In any case, before taking any final decision the inspectors have to take into account at least:

- (a) the seriousness of the violations and their consequences and hazards provoked by them,
- (b) the number of the deficiencies,
- (c) the time needs a non conformity to be remedied (is it something simple that can be remedied directly and before the sailing of the ship or something more serious?),
- (d) the history of the vessel in relation to similar deficiencies,
- (e) the degree of cooperation and reliability of the shipping company (do they easily admit their non conformities and do they try to directly remediate them?) and
- (f) the time for the next departure in case of passenger ships that follow strict itineraries and the nature of the cargo in case of cargo ships.

Restitution

After the enforcement of fines and any other sanctions the Port Authority has to watch the restitution of the deficiencies which means that it has either to proceed to supplementary inspection or to consider the restitution by asking the shipping company to provide documents proving the restitution or both of them.

Two brief examples might clarify it:

-In case of unpaid seafarers, the Port authority will ask by the shipping Company to immediately pay the seafarers and bring to it the payments along with the bank depositaries as proof of the payment. Afterwards, the Port Authority will proceed to detailed examination of the documents so as to be assured about the restitution of the legality. In case of persistent non conformity with the Port Authority's commands for direct payment, the Port Authority will report the fact to the local Prosecutor in written asking by him/her the provision of relevant instructions and orders.⁷¹

-In case of crew members that are obliged to work more than 14 hours in a daily basis in order to meet the operational and safety needs of the ship that spring from the great number of ports of call per day, the Port Authority will demand the direct employment of additional crew members and the provision of compensatory period of rest to crew members that suffered fatigue caused by the violation of their period of rest and after the restitution the provision of documentations that prove the restitution. These include at least inspection by the Port Authority of the employment agreements of the additional crew members, their nautical books⁷², files with the hours of rest and ship's book of employment that prove the employment of additional crew members (in case the action of employment of new crew members has been done in another port than this of the Local Port Authority's) and inspection, after a period of adjustment, of the files of hours of rest of those crewmembers that suffered fatigue caused by

⁷¹ The Compulsory Law 690/1945 defines that any employer who fails to pay due wages to employees on time shall be punished by the prosecution of the person concerned or by the Police Authority or the professional association of employees with imprisonment of up to three months and a fine

⁷² When a seafarer is added to the crew of a ship in such emergent way, his/her nautical book must be duly examined by the officer who will approve the employment in order to check if the candidate crew member has been employed to another ship during the current 24 hours period.

the quantitatively insufficient crew. For confirmation purposes, an additional on board inspection and interviewing of those crewmembers completes the whole process.

Handling of persistent disagreements

In most of the cases of personal dissents between a seafarer and the ship-master or the ship-owner which arise by the implementation of the terms of a S.E.A., the issue is arranged with the intervention of the Port Authority which has mainly a compromise jurisdiction.⁷³ The solutions that are given are not obliged and binding but in most of the cases they become acceptable by the interested parties avoiding in this way the complicated court proceedings. Nevertheless, this intervention doesn't affect other proceedings within the framework of criminal, administrative or disciplinary control which is provided by the legislation and is subject to the Greek Judicial Authorities which seafarers and ship-owners can appeal to.

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⁷³ According to the article 58 of the Decree of 15-12-1836 "On Merchant Shipping Police" port and consular authorities have the right to intervene, if so asked by the interesting parties of a personal disagreement. Namely, with this article is found the compromise jurisdiction of the port authority in these cases.

CHAPTER 5 ASSESSMENT OF THE IMPLEMENTATION OF THE M.L.C. 2006 IN CARGO AND PASSENGER COASTAL SHIPS WITH GREEK FLAG THAT MAKE DOMESTIC VOYAGES.

5.1 EFFECTIVENESS AND CHALLENGES

Undoubtedly, the M.L.C. 2006 is a global innovation in the field of shipping. Its ambitious nature is reflected in the fact that from the beginning it aimed at a global consolidation, setting as a condition for its implementation its ratification by at least 30 members with a total share in the world gross tonnage of ships of at least 30%. The first five countries that had ratified the convention, namely Norway, Bahamas, Marshall Islands, Liberia and Panama, accounted for 44% of the global Gross Tonnage, thus meeting the 30% requirement early, while until September 2019 the Convention has been ratified by 97 countries representing 91% of the world Gross Capacity, proving in this way the strong need for its existence in the field of shipping as a factor of regulation and assurance of the necessary balances in the same framework of action with the most important global safety, security and pollution prevention enforcement systems.

Its wide acceptance that indicates the need of all participants to maintain a balance between their conflicting interests with precursor of this need the expression of common concern by both ship-owners and seafarers' representatives in the J.M.C. of the I.L.O. in 2001. It was this lack of equilibrium that led to the voting of this breakthrough convention just only 5 years after those first concerns.

M.L.C. 2006 targeted not merely to an improvement of seafarers' working and living environment on board the vessel but to this improvement in tandem with ensuring of fair competitive environment for those ship-owners that look for quality in all aspects of their work and thus on board their vessels and their crews too.

However, the extent to which the M.L.C. 2006 has succeeded to maintain this balance is a matter of concern. Did it manage to establish fair terms of a decent

employment within a safe and secure workplace in a manner that ship-owners and governments, targeted to ensure decent working conditions, do not have to bear an unequal burden?

What are the challenges faced by the Greek Port Authorities in this framework of succeeding balance among the adverse forces? The effectiveness of the Convention pertaining to the implementation in Greek cargo and passenger coastal ships is a matter that needs a thorough overview since the whole implementation of the Convention in the domestic voyage fleet appears to have some vulnerabilities.

5.1.1. IN THE FIELD OF THE S.E.A.S

It is a reality that the implementation of the Convention through the National Regulation brought great improvement in the field of S.E.As. Now the S.E.As are detailed and watchfully drafted following in most of the cases the appendix attached to the National Regulation. They contain essential information like the exact wage amount or the way of its account analytically, the preconditions for termination, the time of the annual paid leave or the type used to calculate it.

The S.E.A under the National Regulations must be in valid and define with accuracy its time of duration preventing in this way cases of seafarers' occupation with employment agreements that have been expired long time ago.

It obliges the ship-owner to refer in detail the health and social protection benefits that will provide to seafarers.

The most important contribution is the fact that the text of the S.E.A is regarded that embodies the terms of the C.B.A. which may be in force incorporating in this way all of C.B.A.'s terms within its text. In other words, substantial terms (for the seafarers' rights protection) that are included in a C.B.A. are regarded as part of the S.E.A. and mandatory for the ship-owners and ship-masters even in case that they have not been included within the S.E.As text. It is enough the C.B.A. to be in force. In this way seafarers remain protected by any potential stricter

even unfair rules that a ship-owner -targeting to smoothen the labour costs- would desire to add within the text of the S.E.A.

Now, seafarers are entitled to ask consultation about the content of the contract before signing it while ship-owners are obliged to provide this potential to the candidate crew member and the relative information must be at port authority's disposal. This is a very substantial provision since it ensures in favor of seafarers the potential to withdraw from a future employment commitment with burdensome terms and at the same time the ship-owners' compliance is placed under the direct control of the port authorities.

Of course, the degree of the effectiveness of these innovative features of the S.E.A.s presupposes recurrent inspections, provision of relevant instructions and/or enforcement of sanction by the Port Authorities which attempt to impose uniformity among the S.E.As and compliance with the terms of the article 6 of the National Regulation by the ship-owners.

However, the strict regulations and the recurrent inspections have been proved that are not enough to eliminate incidents of violations and of scarce implementation of the article 6. The crews of the Greek cargo and passenger coastal vessels continue to experience cases of exploitation or unfair treatment with most common cases these:

- (a) of seafarers who have not been given a copy of the agreement, or
- (b) have not examined the terms of the S.E.A before signing it or
- (c) have been started to employ without having first signed a written agreement.
- (d) have signed a S.E.A. for a specific period while it should have been for an indefinite period or
- (e) Seafarers who need to directly terminate the agreement because of serious family health problems but they don't ask it although they could do so according to the provisions of the par. 9 of the article 6 of the National Regulation and
- (e) of seafarers who have accepted unfair terms added to the paragraph of the "additional provisions included mutually agreed by the parts".

5.1.2. IN THE FIELD OF WAGES

The provisions of the article 7 of the National Regulation are among the provisions of the Convention with the greatest impact on the improvement of seafarers' employment conditions. The remuneration of each employee for the work he/she provides under the terms of a S.E.A. and of a C.B.A. is a fair term of employment and the right of every seafarer to fair terms of employment is one of the most important employment rights which every Member must ensure is fully realized.

With the provision of the first paragraph, according to which seafarers must be paid regularly and in full for the work they provide at intervals not exceeding monthly and always in accordance with the terms of any applicable C.B.A., the favorable referral and mandatory commitment under the terms of the current C.B.A. is again achieved for seafarers' benefit. In this case and for example for the passenger coastal ships, essential financial provisions are ensured, which are thoroughly analyzed in the relative C.B.A., as indicatively:

- (a) The obligation of wages' payment at the end of each calendar month,
- (b) The possibility of providing payment in advance after the completion of 15 days of work,
- (c) Payment of overtime and the correct way to calculate it
- (d) The provision of specific allowances by type of work and by capacity.

Ship-owners are now committed to providing their crews with a means of sending all or part of their monthly salary to members of the seafarers' family by timely transfer of the amount to the person designated by the seafarer himself.

The amendment of the article in 2018 makes the system of payment and repayment of due salaries even more reliable. Ship-owners are now required to pay wages exclusively to seafarers' bank accounts. Thus, cases of seafarers' economic exploitation are reduced. During an inspection by the Port Authority, the only way to prove that the crew members have been paid in full and on time is the presentation together with the payment sheets and the corresponding bank depositories, from which a complete data identification must be obtained.

Nevertheless, it is important to be clear that cases of financial exploitation have not been disappeared yet. It is widely accepted that compliance with the Conventions' terms means much more labour costs for the ship-owners. The economic crisis by which our country suffered throughout the previous decade, as expected it left its mark in the field of shipping too. There are a lot of less wealthy ship-owners⁷⁴ for who the full compliance with the provisions of the Convention and of the National Regulation becomes a real challenge. The lower the earnings of the shipping companies the greater the difficulties for crews' repayment are.

Even worse, there are many seafarers who are dissatisfied with the obligation their due payments to be made exclusively to their bank account! Their financial debts to the state in combination with their current family obligations and the financial difficulties resulting from the increased unemployment even in the field of shipping lead many seafarers to informal agreements with their employers for payment of their wages or to any other way different from that provided for exclusive payments to a bank account. As a result, seafarers become vulnerable to any kind of financial abuse, which can involves:

- (g) Underpaid payments,
- (h) late payments,
- (i) installment payments ,
- (j) payments on hand that cannot be proved,
- (k) payments with inappropriate receipt,
- (l) even total deprivation of payment.

⁷⁴ Bauer P.J. 2008 "The Maritime Labour Convention: An Adequate Guarantee of Seafarer Rights, or an Impediment to True Reforms?"

5.1.3. IN THE FIELD OF HOURS OF WORK AND REST

The main objective of the provisions of Article 8 of the National Regulation is to protect seafarers from the factor of fatigue and its impact on the health and performance of seafarers as well as to the uprising of serious safety hazards. The seafarers have in their hands the huge responsibility to guide the ship towards its destination with absolute safety for both the passengers and the cargo, the ship itself and the marine environment. The responsibility they bear is great and therefore requires clarity of thought, self-control, composure and physical and mental readiness which is achieved only when seafarers feel and are healthy and satisfied with their work. In this context, the correct quantitative and qualitative provision of rest time plays a key role in the alertness and efficiency of the crew.

However, the results of relevant inspections are surprisingly unpleasant in terms of the effectiveness of the provisions of Article 8 of the National Regulation, because despite the apparent compliance found, in reality the crew suffers from fatigue. The frequency of the port calls, the restricted time between ports along with the weather and sea conditions on route are enough to provoke fatigue. However this is something that can be adjusted if the rest hours that seafarers are entitled during a day or a week are really and properly provided.

Inspectors are often provided with files of rest hours correctly completed and signed by the sailors and the master, but this does not correspond to the reality. A simple comparison with the bridge log entries and with the division of the crew in watch-keeping is enough to detect the non-compliance and the falsified records.

It is also not uncommon for rest hours to be provided in such a way that sailors are deprived of the necessary minimum rest period of six hours.

The most difficult case, however, is that of the seafarer's deliberate assumption that they are provided with the prescribed rest hours,⁷⁵ which in reality is not true, but can only be proved by conducting an on-board inspection to closely

⁷⁵ What I mean is that, seafarers being afraid of obtaining the "bad" reputation of the "demanding seafarer who provokes problems to the ship-owners" and of the subsequent exclusion by the local labour market they prefer to pretend satisfaction and to be compromised with everything required by their employers.

examine the actual division of watch-keeping, the provision of rest time and the sufficiency of the crew.

Of course, the occurrence of these incidents is not accidental and their deeper causes come from a variety of sources.

5.2. THE BASIC REASONS

The M.L.C. 2006 as a labour instrument seeks to achieve its human rights goals but at the same time as a maritime instrument these labour goals become interwoven with its economic goals related to fair completion for ship-owners targeting to a level playing field in a manner that all the players have obligations based on the same basic rules or terms.

The improvement of the working and living conditions on board the vessel requires by the ship-owners even more capital since the operational costs are significantly increased. A lot of the shipping companies, although they desire to ensure quality in any level they are impaired by the challenges posed by the economic downturn as well as other unforeseen events such as the current pandemic. Thus, some ship-owners are constrained to hire as less as possible crew members and to follow solutions, such as informal agreements with some crew members on the payment way, the due overtime and the hours of rest that put their legal compliance at stake.

Besides this, seafarers of Greek cargo and passenger coastal vessels are unfamiliar with the onboard complaint procedure. Most of them either ignore the provisions of the article 33 of the National Regulation or they prefer to follow obsolete procedures of complaints' submission with result not only the ineffective solution of basic problems but the uprising of conflicts, disagreements and misunderstandings among them and their master, the crew department officers and their ship-owners.

In general, the education of the Greek crews on legal issues is a matter of concern. Nowadays, the shipping industry is characterized by the domain of

strict and complicated international standards the implementation of which is interwoven with the maintenance of safety in all levels. The existence of crew members with education level on legal issues relative low prevents them from properly understanding and familiarizing themselves with essential provisions and standards and results in the consolidation of a low-self confidence human resource unable to properly and effectively claim its rights.

Along with their low education is the prevailing mentality and culture of the Greek crews that make them to believe that seafarers are employees able mainly for manual work only and that the theoretical knowledge which requires intellectual training on legal issues is superfluous or necessary only for the master and some officers.

The strict labour market and serious financial problems by which a lot of seafarers suffer, lead some of them to accept informal agreements or apparently formal with their employers. Representative example is this of the payments on hand or this of the falsified files of hours of rest.

Last but not least is the fear the seafarers feel when they consider to proceed to a complaint submission. They are afraid of being marked out as the demanding employees who always raise claims by their employers and subsequently being victimized and excluded by the local labour market. So, they become enslaved to economic and labour exploitation for fear of dismissal and stigmatization as dysfunctional individuals who refuse to compromise with established interests-serving tactics.

5.3 THOUGHTS AND PROPOSALS FOR FURTHER EFFECTIVENESS OF THE IMPLEMENTATION OF THE MLC CONVENTION AND THE RELATED GREEK LEGISLATION.

Improving the effectiveness of the national regulations adopted pursuant to the M.L.C. 2006 is not a simple matter that can be addressed quickly and easily. Instead, a thorough investigation is required in order to identify the deeper and more substantial causes that prevent the relevant provisions from having the desired effect.

Nevertheless, the results of the inspections carried out on Greek cargo and passenger coastal ships that make domestic voyages since 2014, when most of the National Regulations related to the Convention came into force and my personal experience obtained by the M.L.C. inspections on vessels of this category that I have carried out or coordinated have led me to the expression of some thoughts and proposals regarding the possibility of further improvement of their effectiveness:

(a) Improvement of the seafarers' training system.

Nowadays the belief that seafarers don't need "education of theoretical direction" except for the fact that is extremely anachronistic becomes dangerous too. The international maritime standards for the safety and security of human life, property and the environment at sea (S.O.L.A.S, MARPOL) as well as the international labour standards, as they have been formulated by the Convention, are now applied in the majority of Greek merchant ships, even those that perform only domestic voyages. The effective application of these standards becomes impossible when the operation of the ships is based on crews who are not fully acquainted with all the provisions of these standards. However, their full familiarization requires proper training of the young sailors and further education of the older ones.

The way the students are admitted and studied in the Merchant Marine Academies of our country may have to change. The M.L.C. 2006 and the relative National Law should be an introductory exam course and even more teaching course in each semester.

During their training voyages, the cadets should become familiar with the terms of the Convention and the Regulations in practice.

For example:

- Practicing on the proper division of the crew in watch-keepings in a way that does not violate the provisions on rest hours.
- Studying of the copy of complainants procedures which, according to the par. 4 of the article 33 of the National Regulation must be provided by the master to all seafarers.

Furthermore, in the further educational cycles of the Merchant Navy Executive Training Centers, it would be useful to include the examination of the candidates for a senior certificate in terms of their familiarization with the provisions of the Convention and of any amendments to it.

(b) M.L.C. Certificate

A Maritime Labour Certificate for all levels and degrees within the same framework of the S.T.C.W. provisions should be a presupposition for the approval by the port authorities of seafarer employment on board the vessel . The provisions of the Convention although are not directly connected with safety issues the non compliance with them may lead to incompetent crews and subsequently to serious for the safety hazards. Thus, it sounds necessary seafarers' knowledge and acquaintance with the M.L.C. 2006 to be certified.

(c) Amendment of the legislation governing the crew composition

The national legislation that regulates the crew composition and the manning levels is mainly based on the ship's specific characteristics: The number of the deck crew members is defined by the Gross Tonnage, accordingly of the engine crew members by the horse power and of the crew with general duties by the number of cabins. It may be better this legislation to be amended so as for the final determination of the crew composition per ship category to be taken into account- besides the specific characteristics of G.T., H.P., number of cabins- the number of routes per day and per week, the free time in the ports and the welfare facilities offered by the ship-owner to the crews ashore too.

(d) Amendment of the itineraries approval procedure

Until now, the approval of itineraries by the competent Maritime Transport Directorate of the Ministry of Shipping and Island Policy requires, among other supporting documents, by the ship-owner's company to submit a statement

stating responsibly that the current labour law on hours of work and rest will be observed.

It should be better before the final approval, the shipping company to submit a detailed draft with which will analyze and prove the way in which the under approval itinerary schedule can be supported by the current crew composition. This draft should be co-examined and co-approved by the Seamen's Labour Directorate too.

(e) Second crew

In the event that the examination of the route request reveals the inability to execute the requested routes with simultaneous compliance with the national provisions on working and rest hours, it might be useful to require the recruitment of either a second crew or additional crew members and in any case an additional Master, First Engineer, Chief Officer and Electrician. This requirement should be satisfied before the beginning of the scheduled voyages with emphasis during the summer period which in Greece lasts from the April until the whole October and in some regions the middle of the November.

(f) Analytic payment sheets

Until this time, the payment sheets that are issued by the most shipping companies they don't analyze the way the due overtime has been accounted but they simply include a general total due amount called "overtime" with result the examination and assessment of the correct way of the calculation to become extremely difficult for the seafarer and time consuming for the inspectors. Thus, a legislative regulation that would provide for a mandatory analysis of how overtime is calculated on the payment sheets would greatly facilitate the situation.

(g) Stricter penalties

As it has already been mentioned, the violations of the National Regulation are mainly punished with administrative penalties, while the potential of imposing prohibition of sailing to a passenger coastal ship is a last solution as this would

create serious problems in meeting the transport needs of the passengers. However, the impositions of administrative penalties are sometimes affordable by the shipping companies even financially more advantageous than the addition of extra crew members. So, the fines should be either stricter or the solution of the prohibition of sailing more often used at least in repeated cases of unpaid crews and of serious infringement of the hours of rest.

(h) Establishment of better control systems

Even in the case of the domestic shipping voyages there are cargo and passenger vessels that bear in force a Maritime Labour Certificate and the relative Declaration of Compliance issued by an R.O. The R.Os have extremely important responsibility and play a vital role to the compliance of the ship with the Convention's provisions but at the same time their weak point is the fact that they are paid by the ship-owners and they work in a competitive environment. They have to find a balance among their responsibility to be strict inspectors and their desire to be preferable by the shipping companies. This is very difficult without "discounts" that may put their reliability at stake. Therefore the Greek Competent Authority has to adopt appropriate control systems so as to assure that these private controllers meet the ethical standards⁷⁶.

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⁷⁶ Francisco Piniella, et all, 2015 "The Protection of Seafarers State Practice and the Emerging New International Regime".

CONCLUSION

The adoption of the M.L.C. 2006 by the I.L.O. as a maritime instrument that incorporates into a text the most important maritime labor standards in a simple and comprehensible manner and contributes to the establishment of a system of enforcement and compliance worldwide in an acceptable and fair way for all participants but also applicable to all ships regardless of whether the Convention has been ratified or not by the flag State is undoubtedly something extremely innovative and welcome.

Its implementation worldwide has made a decisive contribution to the improvement of the working and living conditions of seafarers on board, skillfully complementing the other enforcement and compliance systems related to issues of safety of human life and property at sea, protection of the marine environment and training of seafarers too. The Convention doesn't constitute merely an official announcement of the most important human and labour rights but offers to seafarers mechanisms (e.g. the Port States and Flag States' responsibilities, the complaint handling procedures, the Maritime Labour Certificate) of real protection of their rights⁷⁷.

Concerning the adoption and implementation of the Convention in the national level, our country, hastening to adopt the Convention in time and to implement it on its ships with the issuance of the appropriate national laws and regulations, succeeded for the first time in the time data of domestic Greek merchant shipping to offer the workforce, that operates its ships, the opportunity to enjoy a substantial improvement in their working environment by ensuring fairer and safer conditions and also a system of protection from common scourges such as financial exploitation and abuse of working and rest hours.

Nevertheless, empirically speaking there is room for improvement.

⁷⁷ Francisco Piniella et.al., 2015 "The Protection of Seafarers State Practice and the Emerging New International Regime"

I regard that the analysis of the root cause of the gap between the ideal M.L.C. provisions and the non ideal outcome of their implementation in Greek cargo and passenger coastal vessel that make domestic voyages constitutes the fundamental contribution element of my thesis. Unfortunately, even today, abuses of power by employers that involve economic exploitation of seafarers, violation of working and resting hours, imposition of burdensome working conditions through informal agreements and intimidation but also ignorance of their rights and the legal provisions, condescension and retreat under Damocles' sword of defamation and dismissal on seafarers' side leads to the conclusion that the manner the Flag State assures the implementation of the Convention through them (the national regulations) need to be reconsidered so as to become fully effective. In this point, one more contribution element of my thesis is added and which is the expression of relative thoughts and proposals concerning ways that would eliminate the existing margins of non compliance.

In any case, the M.L.C. 2006 is the legal instrument that was missing and its enforcement was more urgent than ever. However, its effectiveness derives not only by the quantitative and qualitative content of its provisions. It is accordingly derived by the relative national provisions, the way that these provisions are adopted and applied by all the participants -namely the shipping companies, the seafarers, the Port and Flag State and the R.O.s- and also by the dominant culture in the maritime labour market and other social and institutional forces.

If we desire the role of the M.L.C. 2006 to become fully functional in favor of the seafarers without being an unbearable burden for the ship-owners too, the focus on the weak points and the taking of appropriate measures for further improvement in order to keep pace with changes in the maritime workplace worldwide and with the prevailing conditions within national borders looks like more immediate and imposing than ever.

.....

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.....

APPENTIXES

Appendix A5-I

The working and living conditions of seafarers that must be inspected and approved by the flag State before certifying a ship in accordance with Standard A5.1.3,

paragraph 1:

Minimum age

Medical certification

Qualifications of seafarers

Seafarers' employment agreements

Use of any licensed or certified or regulated private recruitment and placement service

Hours of work or rest

Manning levels for the ship

Accommodation

On-board recreational facilities

Food and catering

Health and safety and accident prevention

On-board medical care

On-board complaint procedures

Payment of wages

Financial security for repatriation

Financial security relating to ship-owners' liability.

Appendix A5-II

Maritime Labour Certificate

(Note: This Certificate shall have a Declaration
of Maritime Labour Compliance attached)
Issued under the provisions of Article V and Title 5 of the
Maritime Labour Convention, 2006
(referred to below as “the Convention”)
under the authority of the Government of:

.....

....

(full designation of the State whose flag the ship is entitled to fly)

by.....

.....

(full designation and address of the competent authority or recognized
organization

duly authorized under the provisions of the Convention)

Particulars of the ship

Name of ship.....

Distinctive number or letters.....

Port of registry:..... Date of
registry.....

Gross tonnage¹:.....

IMO number:.....

Type of ship.....

Name and address of the ship-owner²:.....

¹ For ships covered by the tonnage measurement interim scheme adopted by the IMO, the gross tonnage is that which is included in the REMARKS column of the International Tonnage Certificate (1969). See Article II(1)(c) of the Convention.

² Shipowner means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Convention, regardless of whether any other organizations or persons fulfil certain of the duties or responsibilities on behalf of the shipowner. See Article II(1)(j) of the Convention.

This is to certify:

1. That this ship has been inspected and verified to be in compliance with the requirements of the Convention, and the provisions of the attached Declaration of Maritime Labour Compliance.

2. That the seafarers' working and living conditions specified in Appendix A5-I of the Convention were found to correspond to the abovementioned country's national requirements implementing the Convention. These national requirements are summarized in the Declaration of Maritime Labour Compliance, Part I.

This Certificate is valid until subject to inspections in accordance with Standards A5.1.3 and A5.1.4 of the Convention.

This Certificate is valid only when the Declaration of Maritime Labour Compliance issued at on is attached. Completion date of the inspection on which this Certificate is based was..... Issued at on Signature of the duly authorized official issuing the Certificate (Seal or stamp of issuing authority, as appropriate)

Endorsements for mandatory intermediate inspection and, if required, any additional inspection This is to certify that the ship was inspected in accordance with Standards A5.1.3 and A5.1.4 of the Convention and that the seafarers' working and living conditions specified in Appendix A5-I of the Convention were found to correspond to the abovementioned country's national requirements implementing the Convention.

Intermediate inspection: Signed:
(to be completed between the second (Signature of authorized official)
and third anniversary dates)

Place:

Date:.....

(Seal or stamp of the authority,
as appropriate)

Additional endorsements (if required) This is to certify that the ship was the subject of an additional inspection for the purpose of verifying that the ship continued to be in compliance with the national requirements implementing the Convention, as required by Standard A3.1, paragraph 3, of the Convention (re-registration or substantial alteration of accommodation) or for other reasons.

Additional inspection: Signed:
(if required) (Signature of authorized official)
.....
Place:.....
Date:.....
(Seal or stamp of the authority,
as appropriate)

Additional inspection: Signed:
(if required) (Signature of authorized official)
.....
Place:.....
Date:.....
(Seal or stamp of the authority,
as appropriate)

Additional inspection: Signed:
(if required) (Signature of authorized official)
.....
Place:.....
Date:.....
(Seal or stamp of the authority, as appropriate)

Extension after renewal inspection (if required) This is to certify that, following a renewal inspection, the ship was found to continue to be in compliance with national laws and regulations or other measures implementing the requirements of the Convention, and that the present certificate is hereby extended, in accordance with paragraph 4 of Standard A5.1.3, until (not more than five months after the expiry date of the existing certificate) to allow for the new certificate to be issued to and made available on board the ship.

Completion date of the renewal inspection on which this extension is based was:

.....
Signed:
(Signature of authorized official)
.....
Place:.....
Date:.....
(Seal or stamp of the authority,
as appropriate)

**Maritime Labour Convention, 2006
Declaration of Maritime Labour Compliance – Part I**

(Note: This Declaration must be attached
to the ship’s Maritime Labour Certificate)

Issued under the authority of: (insert name of competent
authority as defined in Article II, paragraph 1(a), of the Convention)

With respect to the provisions of the Maritime Labour Convention, 2006, the
following referenced ship:

Name of ship	IMO Number	Gross Tonnage

is maintained in accordance with Standard A5.1.3 of the Convention. The undersigned declares, on behalf of the abovementioned competent authority, that:

- (a) the provisions of the Maritime Labour Convention are fully embodied in the national requirements referred to below
- (b) these national requirements are contained in the national provisions referenced below explanations concerning the content of those provisions are provided where necessary
- (c) the details of any substantial equivalencies under Article VI, paragraphs 3 and 4, are provided (strike out the statement which is not applicable)
- (d) any exemptions granted by the competent authority in accordance with Title 3 are clearly indicated in the section provided for this purpose below and
- (e) any ship-type specific requirements under national legislation are also referenced under the requirements concerned.

- 1. Minimum age (Regulation 1.1).....
- 2. Medical certification (Regulation 1.2).....
- 3. Qualifications of seafarers (Regulation 1.3).....
- 4. Seafarers’ employment agreements (Regulation 2.1).....
- 5. Use of any licensed or certified or regulated private recruitment and placement service (Regulation 1.4)
- 6. Hours of work or rest (Regulation 2.3)
- 7. Manning levels for the ship (Regulation 2.7).....
- 8. Accommodation (Regulation 3.1).....
- 9. On-board recreational facilities (Regulation 3.1).....
- 10. Food and catering (Regulation 3.2).....
- 11. Health and safety and accident prevention (Regulation 4.3).....
- 12. On-board medical care (Regulation 4.1).....
- 13. On-board complaint procedures (Regulation 5.1.5).....
- 14. Payment of wages (Regulation 2.2).....
- 15. Financial security for repatriation (Regulation 2.5).....
- 16. Financial security relating to ship-owners’ liability (Regulation 4.2).....

Name.....
 Title:
 Signature:
 Place:
 Date:

(Seal or stamp of the authority,
as appropriate)

Substantial equivalencies

(Note: Strike out the statement which is not applicable)

The following substantial equivalencies, as provided under Article VI, paragraphs 3 and 4, of the Convention, except where stated above, are noted (insert description if applicable):

.....
.....

No equivalency has been granted.

Name:

Title:

Signature:

Place:

Date:

(Seal or stamp of the authority,
as appropriate)

Exemptions

(Note: Strike out the statement which is not applicable)

The following exemptions granted by the competent authority as provided in Title 3 of the Convention are noted:

.....
.....

No exemption has been granted.

Name:

Title:

Signature:

Place:

Date:

(Seal or stamp of the authority,
as appropriate)

Declaration of Maritime Labour Compliance – Part II

Measures adopted to ensure ongoing compliance between inspections

The following measures have been drawn up by the ship-owner, named in the Maritime Labour Certificate to which this Declaration is attached, to ensure ongoing compliance between inspections:

(State below the measures drawn up to ensure compliance with each of the items in Part I)

- 1. Minimum age (Regulation 1.1)
.....
- 2. Medical certification (Regulation 1.2)
.....
- 3. Qualifications of seafarers (Regulation 1.3)
.....
- 4. Seafarers’ employment agreements (Regulation 2.1)
.....
- 5. Use of any licensed or certified or regulated private recruitment and placement service (Regulation 1.4)
.....
- 6. Hours of work or rest (Regulation 2.3)
.....
- 7. Manning levels for the ship (Regulation 2.7)
.....
- 8. Accommodation (Regulation 3.1)
.....
- 9. On-board recreational facilities (Regulation 3.1)
.....
- 10. Food and catering (Regulation 3.2)
.....
- 11. Health and safety and accident prevention (Regulation 4.3)
.....
- 12. On-board medical care (Regulation 4.1)
.....
- 13. On-board complaint procedures (Regulation 5.1.5)
.....
- 14. Payment of wages (Regulation 2.2)
.....
- 15. Financial security for repatriation (Regulation 2.5)
.....
- 16. Financial security relating to ship-owners’ liability (Regulation 4.2)
.....

I hereby certify that the above measures have been drawn up to ensure ongoing compliance, between inspections, with the requirements listed in Part I.

Name of ship-owner.....

Company address:

.....

Name of the authorized signatory:
.....
Title:
Signature of the authorized signatory:
.....
Date:
(Stamp or seal of the ship-owner 1)

The above measures have been reviewed by (insert name of competent authority or duly recognized organization) and, following inspection of the ship, have been determined as meeting the purposes set out under Standard A5.1.3, paragraph 10(b), regarding measures to ensure initial and ongoing compliance with the requirements set out in Part I of this Declaration.

Name:
Title:
Address:
.....
Signature:
Place:
Date:
(Seal or stamp of the authority,
as appropriate)

Interim Maritime Labour Certificate

Issued under the provisions of Article V and Title 5 of the Maritime Labour Convention, 2006
(referred to below as “the Convention”)
under the authority of the Government of:

.....
(full designation of the State whose flag the ship is entitled to fly) by

.....
(full designation and address of the competent authority or recognized organization duly
authorized under the provisions of the Convention)

Particulars of the ship

Name of ship:
Distinctive number or letters:
Port of registry:
Date of registry:
Gross tonnage:
IMO number:
Type of ship:
Name and address of the ship-owner:
.....

.....
This is to certify, for the purposes of Standard A5.1.3, paragraph 7, of the Convention, that:

- (a) this ship has been inspected, as far as reasonable and practicable, for the matters listed in Appendix A5-I to the Convention, taking into account verification of items under (b), (c) and (d) below;
- (b) the ship-owner has demonstrated to the competent authority or recognized organization that the ship has adequate procedures to comply with the Convention;
- (c) the master is familiar with the requirements of the Convention and the responsibilities for implementation; and
- (d) relevant information has been submitted to the competent authority or recognized organization to produce a Declaration of Maritime Labour Compliance.

This Certificate is valid until subject to inspections in accordance with Standards A5.1.3 and A5.1.4. Completion date of the inspection referred to under (a) above wasIssued

at.....on..... Signature of
the duly authorized official issuing the interim certificate:
..... (Seal or stamp of issuing authority, as appropriate).

**ΣΧΕΔΙΟ ΥΠΟΔΕΙΓΜΑΤΟΣ ΣΥΜΒΑΣΗΣ ΝΑΥΤΟΛΟΓΗΣΗΣ
ΥΠΟ ΤΗ ΣΥΜΒΑΣΗ ΝΑΥΤΙΚΗΣ ΕΡΓΑΣΙΑΣ 2006
DRAFT FORMAT FOR SEAFARER EMPLOYMENT AGREEMENT
Under Maritime Labour Convention, 2006**

ΣΤ..... (εισάγετε τόπο σύναψης), σήμερα την
..... (εισάγετε ημερομηνία σύναψης) του
έτους..... (εισάγετε έτος σύναψης),
At[insert place where agreement is entered into] on the
..... day of[insert date when
agreement is entered into] of the year [insert year],

Μεταξύ των κάτωθι υπογεγραμμένων:
Between the undersigned:

Αφενός του πλοιοκτήτη ή του εκπροσώπου ή του πλοιάρχου (διαγράφεται αναλόγως):
On one part the ship-owner or his representative or the master [delete as appropriate]:

.....
.....
.....
.....

[εισάγετε ονοματεπώνυμο, στοιχεία διεύθυνσης κατοικίας και επωνυμία και διεύθυνση εταιρείας σε περίπτωση που ο πλοιοκτήτης είναι νομικό πρόσωπο],
[insert name, address and name and address of the company in case the ship-owner is a legal entity],

Και αφετέρου του ναυτικού,
and on the other part the seafarer:[εισάγετε
πλήρες όνομα], που γεννήθηκε
στο.....(εισάγετε τόπο γέννησης)
στις.....(εισάγετε ημερομηνία/ έτος γέννησης)και κατοικεί
στη.....(εισάγετε διεύθυνση της
κατοικίας/χώρα) και είναι κάτοχος ναυτικού φυλλαδίου ή διαβατηρίου (διαγράψτε
αναλόγως)..... (εισάγετε αριθμό και αρχή
έκδοσης).....
[insert Full Name], born at.....[insert place
of birth] on[insert date of birth], domiciled in
.....[insert
country],at
.....[insert address of domicile], holder of a seafarer's book or
identity document or passport [delete accordingly]
.....
..... [insert number and issuing authority].

Δηλώνουν και συμφωνούν αμοιβαία τη ναυτολόγηση του ναυτικού στο πλοίο:
.....[εισάγετε όνομα],
..... [λιμένα νηολογίου]
..... [αριθμό νηολογίου], Διακριτικό Σήμα
.....(εισάγετε χαρακτήρες) ή/και αριθμό

I.M.O.....[εισάγετε αριθμό], χωρητικότητας
.....[εισάγετε αριθμό και σήμα καταμέτρησης (κοχ ή οχ)],
..... [εισάγετε τύπο πλοίου]πλοίου,

Hereby declare and mutually agree the employment of the seafarer on board the ship:

..... [insert name], registered at
[insert port of register],..... [insert number of register], Call
Sign or IMO no. [insert number],
tonnage.....[insert g.t or g.r.t.], [insert type of
ship].

Υπό τους κάτωθι όρους:

Under the following terms:

ΕΙΔΙΚΟΤΗΤΑ ΝΑΥΤΟΛΟΓΗΣΗΣ

CAPACITY IN WHICH SEAFARER IS TO BE EMPLOYED

Ο ναυτικός ναυτολογείται με την ειδικότητα του

.....
The seafarer is employed under the capacity
.....
.....

ΜΙΣΘΟΙ

WAGES Ο μηνιαίος μισθός που λαμβάνει ο ναυτικός ανέρχεται στο ποσό
των.....

.....[εισάγετε ποσό
αριθμητικώς και ολογράφως και νόμισμα]

Ή αναλόγως, εφόσον απαιτείται (διαγράψτε αναλόγως)

Ο τύπος που χρησιμοποιείται για τον υπολογισμό του μισθού
είναι.....

The amount of monthly wages that the seafarer shall be paid is

.....
..... [insert amount to be paid in
numbers and words and currency] or If needed (delete as appropriate) the formula for determining
monthly wages is
.....
.....

ΕΤΗΣΙΑ ΑΔΕΙΑ ΜΕΤ' ΑΠΟΔΟΧΩΝ

PAID ANNUAL LEAVE Ο ναυτικός δικαιούται να λαμβάνει

άδεια..... [εισάγετε τρόπο
υπολογισμού αδειάς].

The seafarer is entitled to take

leave.....[insert formula of calculation of
leave].

ΛΥΣΗ ΤΗΣ ΣΥΜΒΑΣΗ ΚΑΙ ΣΥΝΘΗΚΕΣ ΠΕΡΙ ΑΥΤΗΣ, ΣΥΜΠΕΡΙΛΑΜΒΑΝΟΜΕΝΩΝ:

TERMINATION OF THE AGREEMENT AND THE CONDITIONS THEREOF, INCLUDING:

(α) Σε περίπτωση που η σύμβαση είναι αορίστου χρόνου, οι προϋποθέσεις υπό τις οποίες
οποιοδήποτε μέρος έχει το δικαίωμα λύσης

είναι.....
.....
.....

.....
..... και η απαιτούμενη περίοδος
ειδοποίησης δεν είναι μικρότερη

από..... (εισάγετε αριθμό
ημερών),

(a) In case that the agreement is made for an indefinite period, the conditions entitling either party to
terminate it are

..... and the required notice period, shall not be less than

..... [insert number of days]

**(β) Σε περίπτωση που η σύμβαση είναι ορισμένου χρόνου, ο χρόνος που ορίζεται για την
λήξη της είναι:**

....., **λήξασα δε διαρκούντος του πλου,
παρατείνεται μέχρι τον κατάπλου στον λιμένα του προορισμού.**

(b) In case that the agreement is made for a definite period, the date fixed for its expiry is

.....notwithstanding, when expiring during the voyage, it is
extended until the arrival at the port of destination.

**(γ) Σε περίπτωση που η σύμβαση συνάπτεται κατά πλου, ο λιμένας προορισμού όπου λύεται
η σύμβαση είναικαι ο χρόνος που πρέπει να παρέλθει
μετά τον κατάπλου για να απολυθεί ο ναυτικός είναι ή δεν υπερβαίνει (διαγράφεται
αναλόγως).....**

(c) In case the agreement has been made for a voyage, the port of destination where the agreement
expires is and the time which has to expire after
arrival before the seafarer should be discharged is or does not exceed (delete as
appropriate).....

**ΕΠΙΔΟΜΑΤΑ ΠΡΟΣΤΑΣΙΑΣ ΤΗΣ ΥΓΕΙΑΣ ΚΑΙ ΚΟΙΝΩΝΙΚΗΣ ΑΣΦΑΛΕΙΑΣ ΠΟΥ ΠΑΡΕΧΟΝΤΑΙ
ΑΠΟ ΤΟΝ ΠΛΟΙΟΚΤΗΤΗ
HEALTH AND SOCIAL SECURITY PROTECTION BENEFITS TO BE PROVIDED BY THE
SHIPOWNER**

..... (εισάγετε παροχές/ρυθμίσεις πλοιοκτήτη για την
προστασία της υγείας, την ιατρική περίθαλψη του ναυτικού επί πλοίου και στην ξηρά,

συμπεριλαμβανομένου μισθού σε περίπτωση ασθένειας ή τραυματισμού και την κοινωνική ασφάλεια, τουλάχιστον σύμφωνα με τους οικείους κανονισμούς για την εφαρμογή της Σύμβασης Ναυτικής Εργασίας 2006)

.....
.....
.....

..... [insert provision/ arrangements of the ship-owner for the health protection, medical care of the seafarer on board and onshore, including wages in case of sickness or injury and social protection according at least with the relevant regulations for the implementation of Maritime Labour Convention, 2006]

**ΠΑΛΙΝΟΣΤΗΣΗ
REPATRIATION**

Ο ναυτικός έχει δικαίωμα παλιννόστησης σύμφωνα με τον οικείο κανονισμό για την εφαρμογή της Σύμβασης Ναυτικής Εργασία 2006 αντίγραφο του οποίου χορηγείται στον ναυτικό στην..... (εισάγετε γλώσσα που είναι κατανοητή στον ναυτικό). Ο/ΟΙ προορισμοί παλιννόστησης του ναυτικού είναι :

.....
..... The seafarer has the right of repatriation according to the relevant regulation for the implementation of Maritime Labour Convention, 2006, a copy of which is made available to the seafarer, written in [insert language that is appropriate to the seafarer]. The destination/ destinations for repatriation is/are

**ΣΥΛΛΟΓΙΚΗ ΣΥΜΒΑΣΗ ΝΑΥΤΙΚΗΣ ΕΡΓΑΣΙΑΣ ΠΟΥ ΕΧΕΙ ΕΦΑΡΜΟΓΗ
APPLICABLE COLLECTIVE BARGAINING AGREEMENT**

.....
.....
.....
.....
.....

(εισάγετε αναφορά σε συλλογική σύμβαση ναυτικής εργασίας που έχει εφαρμογή σε σχέση με τους όρους της παρούσας ναυτολόγησης).....

.....
.....
.....

[insert reference to any applicable collective bargaining agreement in relation to the terms of the present employment agreement].

**ΣΥΜΠΛΗΡΩΜΑΤΙΚΟΙ ΟΡΟΙ ΠΟΥ ΠΕΡΙΛΑΜΒΑΝΟΝΤΑΙ ΟΩΣ ΤΥΧΩΣ ΑΜΟΙΒΑΙΩΣ
ΣΥΜΦΩΝΗΘΗΚΑΝ ΑΠΟ ΤΑ ΜΕΡΗ
ADDITIONAL PROVISIONS INCLUDED IF MUTUALLY AGREED BY THE PARTS**

.....
.....
.....
.....
.....

Ο ναυτικός είχε τη δυνατότητα να εξετάσει επιμελώς και να ζητήσει συμβουλές σχετικά με τους όρους και τις συνθήκες υπό τις οποίες συμφωνήθηκε η παρούσα.

The seafarer has been provided the opportunity to review and seek advice on the terms and conditions agreed hereunder.

Η παρούσα σύμβαση συντάχθηκε σε..... (εισάγετε αριθμό) αντίτυπα και αφού αναγνώσθηκε υπό των μερών υπογράφεται ως ακολούθως:

The present agreement has been written in[insert number] copies and after having been read by the parties, it is hereby signed as follows:

ΜΕΡΗ
PARTS

Ο ΠΛΟΙΟΚΤΗΤΗΣ/Ο ΕΚΠΡΟΣΩΠΟΣ ΠΛΟΙΟΚΤΗΤΗ/ Ο ΠΛΟΙΑΡΧΟΣ

(διαγράφεται αναλόγως)

The Ship-owner/ The Ship-owner's Representative/ The Master
(delete as appropriate)

Ο ΝΑΥΤΙΚΟΣ

The Seafarer

Τίθεται υπογραφή/σφραγίδα
Sign and stamp

Τίθεται υπογραφή
sign

APPENDIX G'
ΠΡΟΤΥΠΟ ΠΙΝΑΚΑ ΟΡΓΑΝΩΣΗΣ ΧΡΟΝΟΥ ΕΡΓΑΣΙΑΣ ΕΠΙ ΠΛΟΙΟΥ
MDEL FORMAT FOR TABLE OF SHIPBOARD WORKING ARRANGEMENTS

Όνομα πλοίου:		Σημαία πλοίου		Αριθμός ΔΝΟ		Τελευταία ενημέρωση πίνακα:	
Name of ship		Flag of the ship:		IMO number:		Latest update of table:	

Ο ελάχιστος αριθμός ωρών ανάπαυσης καθορίζεται σύμφωνα με:(εθνική νομοθεσία ή κανονισμός) που εκδόθηκε κατ' εφαρμογή της Σύμβασης Ναυτικής Εργασίας 2006 (ΣΝΕ 2006) της Διεθνούς Οργάνωσης Εργασίας (ΔΟΕ) και οποιασδήποτε συλλογικής σύμβασης εργασίας που καταχωρήθηκε ή εγκρίθηκε σύμφωνα με την παραπάνω Σύμβαση και της Αναθεωρημένης Διεθνούς Σύμβασης για τα πρότυπα Εκπαίδευσης, Πιστοποίησης και Τήρησης Φυλακών των Ναυτικών του 1978 (Δ.Σ. S.T.C.W.).

The minimum hours of rest are applicable in accordance with:.....(national law or regulation) issued in conformity with Maritime Labour Convention 2006 (MLC 2006) of the International Labour Organization (ILO) and with any applicable collective bargaining agreement registered or authorized in accordance with the Convention on Standards of Training, Certification and Watch-keeping for Seafarers, 1978 as amended (S.T.C.W. Convention).

Ελάχιστος αριθμός ωρών ανάπαυσης :.....Άλλες προδιαγραφές:.....
 Minimum hours of restOther requirements:.....

Θέση/Βαθμός Position/Rank	Προγραμματισμένες ώρες ημερήσιας εργασίας στη θάλασσα Scheduled daily work hours at sea		Προγραμματισμένες ώρες ημερήσιας εργασίας στη λιμένα Scheduled daily work hours at port		Σχόλια Comments	Σύνολο ωρών ημερήσιας ανάπαυσης Total daily rest hours	
	Τήρηση φυλακών (από-έως) Watch-keeping (from-to)	Καθήκοντα άλλα εκτός τήρηση φυλακών Non watch-keeping duties (from-to)	Τήρηση φυλακών (από-έως) Watch-keeping (from-to)	Καθήκοντα άλλα εκτός τήρηση φυλακών Non watch-keeping duties (from-to)		Στη θάλασσα At sea	Στο λιμένα At port

(1)Οι όροι που χρησιμοποιούνται στον πίνακα πρέπει να αναφέρονται στη γλώσσα ή γλώσσες που χρησιμοποιούνται και στην αγγλική.

The terms used in this Table are to appear in the working language or languages of the ship and in English.

(2)Για τις αντίστοιχες θέσεις/βαθμούς που απαριθμούνται η χρησιμοποιούμενη ορολογία πρέπει να είναι ίδια με αυτή του Εγγράφου Ελάχιστης Ασφαλούς Στελέχωσης

For those positions/ranks that are also listed in the Safe Manning Document, the terminology used should be the same as in that document.

(3)Για το προσωπικό που μετέχει σε φυλακές, το πεδίο «σχόλια» μπορεί να χρησιμοποιηθεί για την αναγραφή του προβλεπόμενου αριθμού ωρών που διατίθενται για μη προγραμματισμένη εργασία και οι ώρες αυτές πρέπει να συμπεριλαμβάνονται στην ανάλογη στήλη για τις συνολικές ώρες ημερήσιας εργασίας.

For watch keeping personnel, the comments section may be used to indicate the anticipated number of hours to be devoted to unscheduled work and any such hours should be included in the appropriate total daily work hours column.

APPENDIX D'

First page

ΠΑΡΑΡΤΗΜΑ Δ'
ΠΡΟΤΥΠΟ ΣΧΗΜΑ ΑΡΧΕΙΟΥ ΩΡΩΝ ΑΝΑΠΑΥΣΗΣ ΝΑΥΤΙΚΩΝ (1)
MODEL FORMAT FOR RECORD OF HOURS OF REST OF SEAFARERS

Όνομα πλοίου: Name of ship:	_____	Σημεία πλοίου: Flag of ship:	_____	Αριθμός ΔΝΟ (Εάν υπάρχει): IMO number (if any):	_____
Ναυτικός (πλήρες ονοματεπώνυμο): Seafarer (full name):	_____	Θέσης/ Βαθμός Position/ Rank	_____	Τηρεί φυλακή ⁽²⁾ : Watchkeeper ⁽²⁾ :	ναι <input type="checkbox"/> όχι <input type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/>
Μήνας και έτος : Month and year:	_____				

Αρχείο των ωρών ανάπαυσης
Record of hours of rest

Σημειώστε με «X» ή με συνεχή γραμμή ή με βέλος τις περιόδους εργασίας.
Please mark periods of work, as applicable, with an "X", or using a continuous line or arrow.

ΣΥΜΠΛΗΡΩΣΤΕ ΤΟΝ ΠΙΝΑΚΑ ΣΤΗΝ ΟΠΙΣΘΙΑ ΟΨΗ
COMPLETE THE TABLE ON THE REVERSE SIDE

Στο συγκεκριμένο πλοίο εφαρμόζονται οι ακόλουθες εθνικές νομοθετικές, κανονιστικές διατάξεις ή / και συλλογικές συμβάσεις που διέπουν τους περιορισμούς σχετικά με τις ελάχιστες περιόδους ανάπαυσης :

The following national laws, regulations and/ or collective agreements governing limitations on minimum rest periods apply to this ship:

Αποδέχομαι ότι το παρόν αρχείο απεικονίζει επακριβώς τις ώρες εργασίας και ανάπαυσης του συγκεκριμένου ναυτικού.
I agree that this record is an accurate reflection of the hours of work and rest of the seafarer concerned.

Όνομα πλοιάρχου ή εξουσιοδοτημένου από τον πλοίαρχο ατόμου για την υπογραφή του παρόντος αρχείου _____
Name of the master or person authorized by master to sign this record _____

Υπογραφή πλοιάρχου ή εξουσιοδοτημένου ατόμου : _____ Υπογραφή ναυτικού : _____
Signature of master of authorized person: _____ Signature of seafarer: _____

Αντίγραφο του παρόντος αρχείου χορηγείται στο ναυτικό. Το παρόν έντυπο υπόκειται σε έλεγχο και θεώρηση σύμφωνα με τις ισχύουσες διαδικασίες _____ (ονομασία της αρμόδιας αρχής).

A copy of this record is to be given to the seafarer. This form is subject to examination and endorsement under procedures established by _____ (name of the competent authority).

(1) Οι όροι που χρησιμοποιούνται στο συγκεκριμένο πρότυπο πίνακα πρέπει να αναφέρονται στην ελληνική και στην αγγλική γλώσσα.
The terms used in this model table are to appear in the working language or languages of the ship and in English.

(2) Έλεγχος κατά περίπτωση.
Check as appropriate.

