

Legal Sources Regulating the Crew Change During the COVID-19 Pandemic*

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Abstract: During 2020 and 2021, numerous seafarers had to stay on board their ships long after their employment agreements expired due to a worldwide pandemic caused by COVID-19. In some cases, seafarers were forced to stay on board for more than a year after their employment contracts expired. Seafarers' employers found it impossible to arrange for a crew to embark and disembark from a ship. Furthermore, the seafarers who stayed home for a longer period of time due to a lack of possibility to embark, were deprived of exercising their fundamental right: the right to work. For this kind of situation, the crew change became a burning problem of the maritime industry, so it was necessary to bring legal sources that would regulate the problem.

The aim of this paper is to analyze the content of legal sources adopted during 2020 and 2021 at the international and national level, the purpose of which is to regulate the undisturbed embarking and disembarking of the ship crew in the circumstances of COVID-19 pandemic. These sources are: UN resolution on International Cooperation to Address Challenges Faced by Seafarers as a Result of the COVID-19 Pandemic to Support Global Supply Chains, IMO's industry recommended framework of protocols for ensuring safe ship crew changes and travel, The Neptune Declaration on Seafarer Wellbeing and Crew Change, European Union Guidelines on protection of health, repatriation and travel arrangements for seafarers and other persons on board and the Measures of the Ministry of the Sea of the Republic of Croatia for seafarers who have not been able to renew all the documents required for service on ships.

After analyzing the content of mentioned legal sources, the key directives for the undisturbed ship crew changes during the COVID-19 pandemic are highlighted within this paper's conclusion.

Keywords: Crew Change, COVID-19 Pandemic, Legal Sources Regulating the Crew Change, IMO's Industry Recommended Framework for Safe Ship Crew Changes.

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1. Introduction

Each month about 150,000 seafarers need to be changed over to and from the ships they operate to ensure compliance with international maritime regulations for ensuring safety, crew health and welfare, and the prevention of fatigue [1, 23]. But, during 2020 and 2021 we saw how many seafarers were forced to stay on board their ships long after their employment agreements expired, due to the COVID-19 pandemic. Although seafarers' employment agreements have expired, it was impossible for the seafarers' employers to organise crew change (crew embarking and disembarking the ship) which gave seafarers no option but to stay on board and created conditions for them to languish for months on ended in situations that could amount to forced labour [22, 23]. On the other hand, due to the new situation in the world, the seafarers who stayed home for a longer period of time were prevented from boarding ships and this infringed their fundamental right – the right to work. Also, seafarers were not allowed to make brief “visits to the shore” in ports where they happened to be, for example during the loading or unloading of cargo [2]. Although seafarers were understanding at the beginning of the pandemic, it soon became clear that seafarers must be allowed crew changes urgently. The global supply chain is maintained by seafarers who are the most valuable part of the shipping industry [1, 24]. The shipping industry accounts for 90% of global commerce [3, 22, 31] or, at the European Union (EU) level, 75% of the goods imported to the EU or exported from of the EU is transported by sea [4, 10]. In addition to the economic aspect of the importance of the shipping industry and the seafarers' work, it is important to note that long stay of seafarers on board, which in some cases exceeds the term of a seafarer's employment several times, is unacceptable and goes against the fundamental rights of seafarers set out in the Maritime Labour Convention (MLC) from 2006 [5] and other conventions in the field of labour law [6, 23]. Also, the inability to be relieved and repatriated can affect the safety of a ship and the maritime environment as prescribed by the international convention on the safety of navigation and protection of the maritime environment [2, 23]. Definitely, the pandemic situation surely affected the shipping industry and world trade and it was necessary to find a way to help seafarers go home after the expiry of their employment agreements or join a ship and start working.

Due to the new situation, it was necessary to make changes to the law and govern the organisation of crew changes by legal regulations. Therefore, the aim of this paper is to analyse the content of legal sources enacted during 2020 and 2021 at an international level, the purpose of which is to regulate the unhindered crew change. We shall also review the content of the national law source enacted in the Republic of Croatia regarding the same subject as

the example of the national regulation of crew changes in the pandemic circumstances. The international legal sources the content of which will be analysed are: the United Nations (UN) resolution on International Cooperation to Address Challenges Faced by Seafarers as a Result of the COVID-19 Pandemic to Support Global Supply Chains [7], IMO's industry recommended framework of protocols for ensuring safe ship crew changes and travel during the coronavirus (COVID-19) pandemic [8], The Neptune Declaration on Seafarer Wellbeing and Crew Change [9], and European Union Guidelines on protection of health, repatriation and travel arrangements for seafarers, passengers and other persons on board ships [10]. The national legal source the content of which will be analysed is: The Measures of the Ministry of the Sea, Transport and Infrastructure of the Republic of Croatia for seafarers who have not been able to renew all the documents required for service on ships, serve as example of national regulation [11]. In the final part of the paper, we will summarise and highlight the most important provisions from the aforementioned legal sources.

Using research methods of analysis, synthesis and comparison we will try to answer do these legal sources manage to improve crew change during the COVID-19 pandemic.

2. Inability to Organise Crew Changes: Breach of the Provisions on the Term of Seafarers' Employment Agreements

Inability to organise crew changes automatically brings up the issue of the breaching of the provisions on the term of seafarers' employment agreements. Due to the pandemic, seafarers were unable to leave their ships and return to their place of residence, leading to constituted a breach of the provision from the employment agreement setting out the term of their contractual relationship with the employer.

The term of an employment agreement which a seafarer concludes with an employer depends on the branch of the shipping industry. For example, in the offshore industry, seafarers' employment agreements mostly last for two to three months, whereas in the rest of the shipping industry (for example, carriage of goods at sea), employment agreements are usually concluded for a period of four to six months [12]. This is usual standard of duration of seafarers' employment agreements, but, there are also, more or less, some different contracts with longer or shorter duration. Terms of seafarers' employment agreements mostly differ due to the characteristics of navigation in certain branches of the shipping industry and on the level of complexity and responsibility of seafarers in performing their duties [15]. The shipping industry recognised these factors during normal navigation,

however, in the pandemic situation new challenges needed to be answered regarding the term of employment agreements [12].

International sources from the field of seafarers' labour relations define the term of employment agreements and regulate all other fundamental rights of seafarers (for example, the right to decent living and work conditions aboard ships). According to the Maritime Labour Convention (MLO), which represents the consolidation and modernization of the standards defined in existing conventions and recommendations previously within the work of the International Labour Organization (ILO) [13, 23], maximum term of a seafarer's employment agreement aboard a ship must be less than eleven months [5]. After the expiry of the agreement, the seafarer is entitled to repatriation at the expense of the shipowner. Also, if a seafarer's employment agreement expires before the expiry of eleven months, the seafarer has the right to request repatriation. Repatriation is the seafarer's right if the seafarer's employment agreement was terminated by the shipowner, and even when it was terminated by the seafarer due to justified cause, for example exhaustion, fatigue, etc. Also, according to the MLO, in the event of a breach of the provisions of the MLO (such as the imposition of signing a new employment agreement), a seafarer is entitled to file a complaint aboard the ship [5]. The seafarer's complaint must be resolved by the flag country of the ship, and it must be resolved efficiently, fairly, and as soon as possible [14, 26].

Although at the beginning of the pandemic, flag countries asked seafarers to extend the terms of their employment agreements to maintain the flow of global commerce, as early as in June 2020, the standpoint of the International Transport Workers' Federation (ITF) was that the extension of the employment agreement was "not an acceptable option" because many seafarers already worked longer than envisaged by the agreement [12, 23].

To mobilize action towards addressing this problem, several international organizations (first of all UN and IMO), maritime industry (shipowners, ship operators and charterers as well) and labour organizations approached the relevant authorities and issued guidance documents to facilitate crew changes and repatriation of seafarers while, at the same time, taking steps to minimize the risk of contagion of the coronavirus disease. Based on industry analysis, the numbers of seafarers requiring repatriation after finishing their contracts had declined - from a high of around 400,000 in September 2020 - to around 200,000 as of March 2021 [24]. However, until the measures and guidelines have been adopted, many seafarers witnessed numerous examples of inability to organise relief and the absence of repatriations, as shown by the following examples.

3. Examples of Inability to Organise Crew Changes During the COVID-19 Pandemic

According to the statement issued by the IMO in June 2020, as many as 70,000 crew members on cruise ships worldwide waited for crew changes. Thousands of seafarers have had to stay on board cruise ships, as they have not been allowed to disembark in ports for repatriation to their home countries. Many of these seafarers have not been paid [28]. This clearly illustrates the scope of the problem of the inability to change crews during the pandemic. However, in addition to the cruising industry, consequences of the pandemic were also felt by other branches of transport industry and the consequences of the inability to organise crew changes were felt by many seafarers and ship operators.

One of the examples is the experience of the crew of MV Zagreb of the Croatian company Atlantska plovidba d.d. Dubrovnik, who requested to leave the ship after more than a year spent on board. In this case the intervention of Croatian Seafarers Union was required. At the end, the crew was allowed to disembark in port of Singapore. Also, several solutions were offered so that the crew could leave the ship as soon as possible, including disembarking on the Philippines [12, 26].

Also, urgent requests for repatriation were made on Johar Shipping's ship Coral C, sailing under the Romanian flag, after it arrived in the Port of Ploče, Croatia, to load cargo. For some members of the crew, employment agreements expired long ago and, in addition to this, several different problems were also discovered on the ship itself. Finally, after ITF intervened, part of the crew left the ship, repatriation was arranged, and other discovered deficiencies were remedied [12].

Relief of the crew on MV Obrovac belonging to Croatian company Tankerska plovidba d.d. Zadar in the Port of Singapore was carried out only in the third "attempt" because port authorities refused to allow the relief of the crew on board the ship which entered the port for bunkering, i.e. it did not have scheduled cargo loading and unloading. Only after repeated insistence of the shipowners, relief and repatriation were carried out. The shipowner incurred significant additional costs due to two refusals to allow the crew to embark and disembark. Of course, because of this the shipowner had a high costs.

After arriving at the Croatian port of Gruž, Croatia, the cruiser Marella Disco stayed at the port for nine full months. In addition to the problem of unhindered disembarking of the crew on the territory of the Republic of Croatia, there was also a crisis that lasted for several months due to the

absence of repatriation, which almost led to a crew strike. However, the relief for the crew was finally organised in the port of Reunion [12].

These are only a few examples of the experiences of seafarers and ship operators in organising crew changes during the pandemic. When the crew change is finally organised, the most important thing is to follow the procedure list prescribed by the port countries, with which all participants in the shipping industry must be familiar. Therefore, in this paper we also need to discuss some fundamental terms defined by the procedure lists of the port countries.

4. Procedure Lists for Seafarers When Embarking and Disembarking a Ship

In order to reduce the number of absences of repatriation during the pandemic, countries/port countries, each on its own, compiled a list of procedures for seafarers when embarking and disembarking a ship. There is no unified list of procedures for seafarers in different port countries. The list will also surely change depending on the measures adopted by individual countries. What different procedure lists of different port countries have in common is the mandatory COVID-19 test. A PCR test is mostly used due to its reliability, and the costs of such tests are paid by a seafarer's employer. Test results and other information on the voyage must also be visible in the so-called 'Fit for Travel' certificate. Also, certain countries require a 'Stay Home Notice', i.e. quarantine (self-isolation) for seafarers before embarking or disembarking a ship, which as a rule lasts for fourteen days (in some countries ten days). Some countries require all of the above, including quarantine (self-isolation), upon arrival at the port country or after coming on board. Different countries truly have different requirements regarding this issue [12].

Maritime agents are of great help to seafarers when searching for information on procedure lists for embarkation and disembarkation of ships. Maritime agencies provide help in different ways, so that's how an interactive world map showing ports in the world is available on the website of Wilhelmsen, one of the largest maritime agents in the world. After selecting a country, seafarers have access to information on the rules and restrictions in effect in a certain country. The map is updated twice a day, so that the information is always up to date [16]. Similar information is also provided by the companies such as Inchcape [17] and Gac [18] which are the subject of business shipping, logistics and marine services.

The procedure lists of port countries must be adhered to, but in addition to them, changes to the law were also necessary at other levels, primarily at an international level.

5. International Legal Sources Enacted to Facilitate Crew Change

At the start of the pandemic, the main problem was that governments around the world have suspended international flights, closed borders, ports and airports and imposed travel restrictions on foreign nationals. These restrictions have directly impacted the capacity of seafarers to travel to and from ships. Therefore, it was crucial to enact legal sources to regulate crew changes.

As at 10 June 2020, only 30% of governments worldwide were allowing crew changes to take place. This situation is unsustainable, both for the safety and well-being of seafarers and the safe operation of maritime trade [28].

Several important international legal sources have been enacted to facilitate of crew change and repatriation. These are primarily the UN resolution on international cooperation to address challenges faced by seafarers as a result of the COVID-19 pandemic to support global supply chains (A/RES/75/17) [7], IMO's industry recommended framework of protocols for ensuring safe ship crew changes and travel during the coronavirus (COVID-19) [8], the Neptune Declaration on Seafarer Wellbeing and Crew Change [9] and European Union Guidelines on protection of health, repatriation and travel arrangements for seafarers, passengers and other persons on board ships [10].

From the national legal sources, we primarily refer to those which are significant for Croatian seafarers, and in this part we will cover the measures of the Ministry of the Sea, Transport and Infrastructure of the Republic of Croatia for seafarers who couldn't renew all the documents required for service on ships [11] which the Ministry enacted "at the height" of the pandemic in 2020.

We shall highlight important provisions of the aforementioned legal sources below.

5.1. Resolution on International cooperation to address challenges faced by seafarers as a result of the COVID-19 pandemic to support global supply chains (A/RES/75/17)

In December 2020, the UN General Assembly unanimously adopted a resolution on International cooperation to address challenges faced by

seafarers as a result of the COVID-19 pandemic to support global supply chains (A/RES/75/17) [7].

Co-sponsored by 71 countries, the resolution among others calls upon the UN system, under the leadership of the Secretary-General, to work with all relevant actors in order to mobilize a coordinated global response to the pandemic and its adverse social, economic and financial impact on all societies (paragraph 2) and urges member states to designate seafarers and other marine personnel as key workers (paragraph 3) [7]. Shipping industry, relying on the world's 1.9 million seafarers, has played a vital role in the global response to COVID-19 pandemic, continuing to deliver food, medical supplies, fuel and other essential goods and helping to keep global supply chains and flows of commerce running [27] accordingly governments and industry should ensure that seafarers are designated as key workers.

The resolution encourages governments and other stakeholders to implement the IMO protocols titled Industry recommended framework of protocols for ensuring safe ship crew changes and travel during the coronavirus (COVID-19) pandemic (paragraph 4) [7].

Also, the resolution calls upon governments to promptly implement relevant measures to facilitate maritime crew changes, including by enabling their embarkment and disembarkment, expediting travel and repatriation efforts, and ensuring access to medical care (paragraph 5) [7].

Countries with responsibilities as flag States should ensure that seafarers on ships that fly their flags are covered by adequate measures for the protection of their health and have access to prompt and adequate medical care whilst working on board, including access to vaccination and that seafarers on ships that fly their flags are provided with occupational health protection and live, work and train on board ship in a safe and hygienic environment [23].

The resolution also calls upon international organizations and other relevant stakeholders, including relevant workers and employer's organizations, to support Governments, upon their request, in the design and implementation of their responses and policies aimed at ensuring the integrity and increasing the resilience of global supply chains, decent working and living conditions and human rights of seafarers (paragraph 6) [7].

States and other relevant stakeholders should, in consultations and meetings on seafarer issues at the International Labour Organization and the International Maritime Organization, keep the relevant legal framework under review, and ensure that international obligations are respected and implemented [27].

5.2. IMO's industry recommended framework of protocols for ensuring safe ship crew changes and travel during the coronavirus (COVID-19) pandemic

Since the beginning of the pandemic, numerous governments and seafarers' and shipowners' organizations have turned to the International Labour Office (ILO) for guidance on how best to address the complexities of the current crisis in light of the provisions of the Maritime Labour Convention, 2006. ILO responds to such requests by referring, among other things, when relevant, the recommendations published by the International Maritime Organization (IMO) [23].

The first IMO's industry recommended framework of protocols for ensuring safe ship crew changes and travel during the coronavirus (COVID-19) pandemic was adopted in November 2020. Namely, the Maritime Safety Committee (MSC), at its 102nd session (from 4 to 11 November 2020), inter alia, recognized the importance of the framework of protocols for ensuring safe ship crew changes and travel during the coronavirus pandemic. These recommended framework contains protocols for joining a ship and protocols for leaving a ship and repatriation, including the need for compliance and strict adherence with COVID-19 testing and quarantine requirements, and measures to prevent infection on board ships [19].

According to the protocols for joining a ship in IMO's industry recommended framework from November 2020, the objective of these protocols is to facilitate safe travel of seafarers to join ships for the purpose of conducting crew changes, and to ensure that effective measures are applied to manage and control the risk of seafarers becoming infected with the coronavirus (COVID-19), or infecting other persons, prior to leaving their place of ordinary residence and while travelling via aircraft (and other modes of transport) to join ships in a seaport in another country. Also, the objective of protocols for leaving a ship and repatriation is to facilitate safe travel of seafarers in order to be repatriated, and to ensure that effective measures are applied to manage and control the risk of seafarers becoming infected with the coronavirus (COVID-19), or infecting other persons, throughout the process of travelling via aircraft (and other transport modes) to their place of ordinary residence in another country [19].

Protocols from November 2020 have been revised in April 2021 to take account of issues relevant to the global rollout of vaccines and the critical part they will play in facilitating ships' crew changes and the efficient movement of world trade. Once again governments have committed to minimizing disruptions to trade and global supply chains, and have identified the need to prioritize keeping logistics networks open and

functioning efficiently. Member states was invited to consider the protocols and advise shipowners, operators and managers of ships entitled to fly their flag, as appropriate, as well as shipboard personnel employed or engaged on such ships to act accordingly. Also, intergovernmental organizations and non-governmental organizations in consultative status with the IMO are also invited to consider the protocols, and other guidance, and advise their membership accordingly [8].

Framework of protocols contains protocols for joining a ship from a seafarer's place of ordinary residence in one country via aircraft to join a ship in a seaport in another country and protocols for leaving a ship and repatriation from a ship in a seaport in one country via aircraft to a seafarer's place of ordinary residence in another country. As in the previous protocols from November 2020 and in these from April 2021 the objective of protocols for joining a ship is to facilitate safe travel of seafarers to join ships for the purpose of conducting crew changes, and to ensure that effective measures are applied to manage and control the risk of seafarers becoming infected with the coronavirus (COVID-19), or infecting other persons, prior to leaving their place of ordinary residence and while travelling via aircraft (and other modes of transport) to join ships in a seaport in another country (provisions from 1 to 6). The objective of protocols for leaving a ship and repatriation is to facilitate safe travel of seafarers in order to be repatriated, and to ensure that effective measures are applied to manage and control the risk of seafarers becoming infected with the coronavirus (COVID-19), or infecting other persons, throughout the process of travelling via aircraft (and other transport modes) to their place of ordinary residence in another country (provisions from 7 to 12) [8]. Taking into account differences in national requirements, a straightforward system is proposed for the evaluation of risks and the communication of the control measures to be put in place, by mutual agreement, to reduce the risk of infection [28].

Recently the Maritime Safety Committee (MSC), at its 104th session, from 4 to 8 October 2021, approved a draft IMO Assembly resolution consolidating issues related to crew change, access to medical care, key worker designation and seafarers' prioritization for COVID-19 vaccination, with a view to adoption at the 32nd session of the IMO Assembly which is planned for December 2021 [20]. Therefore, it is necessary to continue to monitor the development of the adoption of IMO protocols in this area.

5.3. The Neptune Declaration on Seafarer Wellbeing and Crew Change

Analysis of international legal sources enacted to facilitate crew change we continue with the analysis of the Neptune Declaration on Seafarer Wellbeing and Crew Change.

The declaration was developed by the Maritime Industry Crew Change Taskforce created as an outcome of the Global Maritime Forum's 2020 Virtual High-Level Meeting [22].

In January 2021, more than 600 companies and organizations signed the Neptune Declaration, recognizing their shared responsibility to resolve the crew change crisis. The signatories to The Neptune Declaration on Seafarer Wellbeing and Crew Change, recognize that it is necessary to share responsibility to ensure that the current crew change crisis is resolved as soon as possible and to use the learnings from the crisis as an opportunity to build a more resilient maritime supply chain [9, 22, 23].

According to the Neptune Declaration, the most effective way of addressing the crew change challenge and building a more resilient maritime logistics chain, is by working together across the value chain with industry stakeholders, organizations and with governments to implement solutions that work in practice. Therefore, according to the Neptune Declaration, it is necessary to take action to resolve the crew change crisis, based on individual position and role in the value chain, thereby ensuring the rights and wellbeing of the seafarers supporting global supply chains. So, to make tangible improvements, according to the Neptune Declaration, the following actions should be implemented: seafarers need to be recognised as key workers and given priority access to COVID-19 vaccines, gold standard health protocols based on existing best practice need to be established and implemented, collaboration between ship operators and charterers needs to be increased to facilitate crew changes and to ensure air connectivity between key maritime hubs for seafarers [9].

Namely, the Neptune Declaration states that the Seafarers should be recognized as key workers by all governments in line with the UN General Assembly resolution adopted on December 2020 [7] and the transition of seafarers across borders should be facilitated based on internationally agreed, high-quality health protocols. Governments and other stakeholders should work together with the maritime industry to ensure that seafarers, irrespective of their nationality, get priority access to COVID-19 vaccines alongside other key workers and health care professionals in recognition of their critical role in global supply chains and trade [9]. The aim is to ensure that seafarers are medically fit and have access to medical care, with mechanisms to prevent and respond to pandemic-related emergencies at sea, and that ships and port facilities meet international sanitary requirements. In particular, seafarers should be recognized as key workers and vaccinated as a matter of priority [27].

The Neptune Declaration advocates the establishment and implementation of gold standard health protocols based on existing best

practice. According to the Neptune Declaration, the maritime industry and governments should implement the IMO recommended framework of protocols for ensuring safe ship crew changes and travel during the coronavirus (COVID-19) pandemic [8] which has been recognized by the IMO earlier [9].

It is stated that facilitating crew changes based on high-quality health protocols is a shared responsibility which will create benefits for all by minimizing the risk of COVID-19 spread on vessels, minimizing the risk of disruptions to global supply chains, while contributing to maritime safety and the wellbeing of seafarers. Shipowners and charterers should share relevant information transparently and collaborate to ensure that necessary crew changes can be carried out with the least impact possible in terms of cost and delays. In this connection, the owner should provide the charterer with as much notice as possible on intended crew changes, while the charterer should make all reasonable efforts to accommodate crew changes including when the vessel has to make a reasonable deviation. No charter contracts should contain clauses preventing necessary crew changes from being carried out, as the aggregate effect of such clauses could be a serious obstacle to the safe operation of maritime trade and the protection of the wellbeing and rights of seafarers. By implementing high-quality health protocols, shipowners can reduce the risk of trade disruption due to COVID-19, which also creates benefits to charterer [9]. These provisions are implemented in a tool developed by the UN Human Rights Office, the UN Global Compact, and the UN Working Group on Business and Human Rights which have issued a statement calling upon companies to act under the UNGPs. This call has been echoed by the International Labour Organization (ILO) and IMO intended to help businesses uphold their responsibility to respect human rights in the maritime sector during the COVID-19 related crew change crisis through urgent measures. The tool is a response to the ongoing crisis concerning crew changes [22].

The critical issues that have affected the international shipping sector during the pandemic include also border closures to airlines, quarantine requirements and restrictions on personnel crossing borders in some countries [28].

According to the Neptune Declaration, in the part on the need to ensure air connectivity between key maritime hubs for seafarers it is stated that the aviation industry should work together with the maritime industry to ensure that airlift capacity is established between major crew changing hubs and seafaring nations. Also, the aviation and maritime industries as well as governments should work together to establish a universally accepted and harmonized framework of standards for the validation of trusted health data

for seafarers to facilitate border crossing and ensure the long-term resilience of air connectivity [9].

5.4. European Union guidelines on protection of health, repatriation and travel arrangements for seafarers, passengers and other persons on board ships

The European Union (EU) contributed in facilitating crew changes and repatriation of seafarers adopting Guidelines on protection of health, repatriation and travel arrangements for seafarers, passengers and other persons on board ships. These Guidelines state that EU member states should facilitate the transit of EU citizens and third-country nationals who are EU residents for their return home. Workers in essential functions, regardless of their nationality, should be able to transit and travel to ensure continued professional activity. This includes, inter alia, and seafarers [10].

The Guidelines contain a summary, general guidance and provisions under the heading: repatriation of persons on board cruise ships and all other vessels, changeovers of crews, designated ports for crew changes, sanitary recommendations and ship supplies, recommendation for additional COVID-19 updated reporting by ships approaching EU ports.

According to the provisions of the EU guidelines under the title changeovers of crews and designated ports for crew changes from the guidelines, as essential staff, seafarers should be exempt from travel restrictions when they are in transit to the port where they take up their duties [21]. Member States should, in coordination among themselves, designate several ports in the Union for fast-track crew changes. The ports should be geographically dispersed to cover the EU and should be connected to operational airports and rail stations. EU member states should envisage the possibility of dedicated or regular flight and rail operations to ensure the transport connections for crew changes, allowing for swift travel and repatriations of seafarers [10].

In the context of EU it is important to point out the European Community Shipowners' Associations (ECSA). ECSA emphasizes that its main priority is the welfare of crew and passengers and the guidelines certainly serve as the basis for the changes that need to happen on the ground. Their members work closely with the national authorities, to see that the procedure set out in the guidelines are carried out, and they will certainly relay their feedback to the European level. On its side, ECSA will continue to cooperate with the EU institutions to make sure that there is a coordinated approach by all member states with regard to the implementation of the Commission's guideline [30].

According to the EU guidelines, these designated ports should have nearby accommodation where seafarers could wait for arrival of the ship they should board or for their flight, train or ship if it does not leave on the same day. This accommodation should have adequate facilities to allow them to shelter in place. This should enable undergoing 14 days of quarantine before embarking and after disembarking if the EU member state in question requires this and if testing is not available. Also, the ports should have accessible and adequate medical services available to seafarers when they embark, disembark and during their quarantine periods [10].

These provisions in the EU guidelines end with a provision that emphasizes that the practice of designating ports where crew changes can take place safely and unhindered can then be shared with third countries to be implemented worldwide. So, due to the international nature of the shipping sector, the difficulties relating to crew changes are not just limited to operations in the EU [10].

International Chamber of Shipping (ICS) and International Transport Workers' Federation (ITF) called on all Governments to identify ports in their countries, and appropriate airports nearby, from where crew changes can be resumed as soon as possible, and to inform IMO and the International Civil Aviation Organization accordingly. They also called on Governments, in the event of medical emergencies, to provide visiting seafarers with access to emergency medical treatment ashore and, if necessary, to facilitate emergency repatriation [31].

6. National legal sources enacted to facilitate crew change

Croatia is mostly labour-supplying State, less is known as flag State and Croatian ports are not usually "home ports" for international ships, where, in addition to other actions, crew would be changed [25].

Delays in joining crews and in repatriation may result in seafarers not getting their minimum sea time requirements and consequent expiration of professional certification [22]. That's why in June 2020, the Ministry of the Sea, Transport and Infrastructure of the Republic of Croatia decided to enact measures for seafarers who couldn't renew all documents for service on ships and thus approve general extension of the validity of the seafarers' personal documents in order to enable them to work in accordance with the law. Those measures were established in line with all recommendations of the International Maritime Organization on implementing pragmatic approach that do not jeopardize safety of navigation and taking into account that such measures do not substantially affect the competence of the seafarer [29].

The extension of the validity of the seafarers' documents beyond their expiration date pertains to certificates of competence and certificates of proficiency which expired by 18 June 2020, and which were given a general extension of validity of three months. The extension also pertains to medical certificates. With these measures, the Ministry allowed the seafarers to work without having valid medical certificates provided that this period does not exceed three months and that the seafarer holds an expired medical certificate from the last date [11, 25]. Since lockdown measures imposed by countries around the world resulted with inability to organize crew change in many countries and despite the UN General Assembly Resolution adopted in December 2020 recognizing seafarers as key workers in order to facilitate safe and unhindered movement for embarkation and disembarkation, there are still a number of seafarers holding Croatian certificates and documents that are embarked on board vessel with no possibility to organize crew change and their repatriation and whose certificates and documents are due to expire. Seafarers holding certificates and documents issued by the Republic of Croatia who are embarked or will be embarked on board vessel with valid certificates and documents that will expire upon the expiration of regularly concluded seafarers' employment agreement (SEA) and with inability to organize crew change and repatriation, such certificates and documents shall remain valid until disembarkation and repatriation of seafarer concerned at the latest [29].

Also, with regard to the extension of seafaring service after the expiry of the seafarer's employment agreement and the inability to organise repatriation of seafarers, shipowners may extend the validity of the seafarer's employment contract for a maximum of three additional months if the seafarer agrees to such extension and if this is in line with the applicable collective bargaining agreement [11].

In this case, it is necessary to conclude an annex to the seafarer's employment agreement under the same terms as the underlying contract [11, 23].

Also, with regard to the seaman's book, the embarkation permission and seafarer's identification documents, the Ministry decided that the seaman's books, the permission to embark and the seafarer's identification documents which expired before 18 June 2020, will be granted a general validity extension of up to three months [11, 23].

These measures succeeded in somewhat alleviating the seafarers' problems regarding their repatriation, but even after the measures have been enacted there have been individual and group problems in organising crew change and repatriation.

7. Conclusion

During the COVID-19 pandemic we witnessed cases of a lack of organisation in crew changes on ships. Prolonged stay of the crew on board a ship implies a breach of the provisions on the term of employment agreements, and it goes against a series of international sources regulating employment, safety at sea, environmental protection, etc. Due to the closure of borders all over the world, changes had to be made to the law to emphasise the importance and significance of seafarers and their place as key workers in the organisation of world trade. Simply put, without seafarers, there is no trade, industry, or income. Unfortunately, in the period in which the issue of crew change organisation was not regulated, we witnessed numerous instances of crew being kept aboard ships long after their employment agreements expired. After the crew changes are finally organised, they need to be organised with adherence to the series of measures set out by procedure lists prescribed by port countries. It is necessary to constantly keep track of the procedure lists for seafarers when embarking and disembarking ships because they are subject to frequent changes. However, the most important step in regulating crew changes was the enactment of several international legal sources. These legal sources were adopted during 2020 and 2021. As the most important international legal sources we highlighted are the UN resolution on International Cooperation to Address Challenges Faced by Seafarers as a Result of the COVID-19 Pandemic to Support Global Supply Chains, IMO's industry recommended framework of protocols for ensuring safe ship crew changes and travel during the coronavirus (COVID-19) pandemic, The Neptune Declaration on Seafarer Wellbeing and Crew Change, and European Union Guidelines on protection of health, repatriation and travel arrangements for seafarers, passengers and other persons on board ships. These several important legal sources have taken an important step in the organization of crew change and they all highlight seafarers as key workers or workers in essential functions.

By analysing these legal sources, as most important provisions we highlight those pertaining to calls upon governments (supported by international organizations) to promptly implement relevant measures, protocols and polices to facilitate maritime crew changes and repatriation from UN resolution and provisions of protocols for joining a ship and protocols for leaving a ship and repatriation, from the IMO's industry recommended framework of protocols. To make tangible improvements in crew change, according to the Neptune Declaration and IMO's industry recommended framework of protocols - seafarers need to be given priority access to COVID-19 vaccines. European Union Guidelines emphasize the

importance of designation several ports in the Union for fast-track crew changes with nearby accommodation that have adequate facilities to enable undergoing 14 days of quarantine before embarking and after disembarking. The Neptune Declaration emphasize that collaboration between ship operators and charterers needs to be increased to facilitate crew changes and to ensure air connectivity between key maritime hubs for seafarers. All of these legal sources involve establishment and implementation of high medical care standards for seafarers when they embark, disembark and during their quarantine periods.

As an example of a national legal source in regulating the crew change issues, we highlighted the Measures of the Ministry of the Sea, Transport and Infrastructure of the Republic of Croatia for seafarers who have not been able to renew all the documents required for service on ships serve as examples of national regulations. The aim of same measures is to regulate the period of validity of a seafarer's certificates which expired while the seafarers who were not able to disembark the ship due to the pandemic were aboard ships. These measures were significant for seafarers of labour-supplying state as Croatia.

All of these legal sources, international and national, play an important role in regulating crew change during a pandemic. So, regardless of the situation with the COVID 19 pandemic, it is important not to allow "the return" of the problems of organising crew changes. We can only move forward and adapt legal sources to issues encountered in practice. Crew changes of seafarers are important and we cannot disregard legal regulation in this issue.

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