

CROATIAN PARLIAMENT

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Pursuant to Article 89 of the Constitution of the Republic of Croatia, I hereby bring a

DECISION

PROMULGATING THE ACT ON AMENDMENTS

TO THE ACT ON MARITIME SHIP AND PORT SECURITY

I hereby promulgate the Act on amendments to the Act on Maritime Ship and Port Security, as adopted by the Croatian Parliament on its session held on 18 May 2012.

Class: 011-01/12-01/68

Number: 71-05-03/1-12-2

Zagreb, 22 May 2012

President

of the Republic of Croatia

Ivo Josipović, m. p.

ACT

ON AMENDMENTS

TO THE ACT ON MARITIME SHIP AND PORT SECURITY

Article 1

In the Act on Maritime Ship and Port Security (Official Gazette, No. 124/09), in Article 2 point 29, after the words: "maritime sector", the full stop is replaced by a comma, after which points 30, 31 and 32 are added to read as follows:

"30. *Piracy* means the piracy as defined in Article 101 of the United Nations Convention on the Law of the Sea,

31. *Armed robbery* means any act covered by the definition of piracy if committed in internal waters, territorial sea of the coastal State and archipelagic waters,

32. *Armed security personnel* means persons who are not a members of the ship's crew, and who are onboard ships for the purpose of providing direct protection of the crew, ship, cargo

and other property on board the ship from piracy and armed robbery, and who can, in case of performance of their activities on board the ship, use firearms."

Article 2

In Article 3 paragraph 1, point 3 is amended to read as follows:

"3. mobile offshore structures for research and exploitation of the seabed and submarine area registered in appropriate registers or records in the Republic of Croatia, except when located in internal waters or territorial sea of the Republic of Croatia,".

Paragraph 6 is amended to read as follows:

"Provisions of this Act referring to ships shall apply correspondingly to fixed offshore structures for research and exploitation of the submarine area, as prescribed in the Technical Rules."

Article 3

After Article 22, Part 3a and Articles 22a to 22g are added to read as follows:

"Part 3a

SECURITY OF SHIPS OF CROATIAN NATIONALITY FROM PIRACY AND ARMED ROBBERY

Article 22a

The company shall, for each ship scheduled to sail in maritime areas in which there is a high risk of piracy or armed robbery against ships:

- 1) prepare a risk assessment of pirate attacks and armed robbery,
- 2) define and implement measures of protection against piracy and armed robbery according to the risk assessment and the recommendations of the International Maritime Organisation, as well as the best established practice for prevention and procedure in case of pirate attacks,
- 3) prepare and implement procedures in the ship security plan for protection against piracy and armed robbery and, if necessary, for embarkation, stay and debarkation of armed security personnel on board ships, in accordance with the risk assessment,
- 4) perform exercises which train the crew for implementation of measures and procedures mentioned under points 2 and 3 of this Article,
- 5) cooperate with international security forces in risk areas,
- 6) inform the Ministry about every pirate attack and armed robbery against the ship and perform required actions as prescribed in Article 22e of this Act, as well as recommendations of the International Maritime Organisation.

Article 22b

Regarding the ship which is scheduled to sail in maritime areas with high risk of piracy or armed robbery against ships and on board which, according to the risk assessment, it is necessary to embark armed security personnel, in addition to measures from Article 22a of this Act, the company shall also undertake the following measures:

- 1) obtain permission from the Ministry for embarkation of armed security personnel mentioned in Article 22c of this Act,
- 2) before embarkation of armed security personnel, it shall inform the Ministry about the exact time and place of their embarkation on and debarkation from the ship,
- 3) ensure safe loading and unloading of weapons on the ship and, if necessary, obtain permissions from other States,
- 4) ensure personal life-saving appliances at sea for armed security personnel.

Article 22c

The minister, with prior consent of the ministry competent for internal affairs, can issue a decision allowing embarkation of armed security personnel on ships of Croatian nationality during navigation in maritime areas with high risk of piracy or armed robbery against ships.

Decision from paragraph 1 of this Article shall be issued upon the company's application submitted based on risk assessment for all or particular ships of that company, as indicated in the application. All required documents and information shall be enclosed with the application, in accordance with Article 22e of this Act.

Prior to the submission of the application referred to in paragraph 2 of this Article, the company shall determine whether all other available practical instruments of self-defence have been used, and in preparation of the risk assessment, it shall include particularly:

- safety and security conditions on board the ship,
- previous use of all practical measures of self-defence,
- potential abuse of firearms and related injuries or deaths,
- potential unexpected casualties,
- issue of responsibility,
- potential situation escalations,
- harmonisation with international and national law.

Costs of embarkation of armed security personnel on board ships of Croatian nationality shall be fully borne by the company.

No appeal shall be allowed against the decision from paragraph 1 of this Article; however, an administrative dispute may be initiated.

Article 22d

For the purpose of necessary protection of the crew, ship, cargo and other property on board the ship from simultaneous or imminent pirate attack or armed robbery, the armed security personnel on board ships of Croatian nationality can use firearms, strictly with the consent of the master and only to the degree required to repel the attack.

Armed security personnel on board ships of Croatian nationality, in accordance with the Recommendations of the International Maritime Organisation, shall observe regulations of the Republic of Croatia, as well as regulations of a port State and a coastal State, and shall observe commands of the master.

A plan of measures and actions to be taken in case of embarkation of armed security personnel on board shall be included in the Ship Security Plan (SSP).

The master shall enter in the ship's log the data on every intentional or unintentional use of firearms on board the ship.

The master shall not be held accountable for excessive force used by the armed security personnel in defence of the crew, ship and cargo.

Article 22e

The minister shall, with prior consent of the ministry competent for internal affairs and the ministry competent for the defence, by way of special regulation, define conditions to be fulfilled by legal persons who provide services of embarkation of armed security personnel on board ships of Croatian nationality; the minister shall also prescribe documents and information to be enclosed with the application for permission of embarkation of armed security personnel on board ships of Croatian nationality.

Article 22f

Legal persons who provide services of embarkation of armed security personnel on board ships of Croatian nationality shall have a valid certificate (permit) issued by the Ministry.

The permit referred to in paragraph 1 of this Article shall not be mandatory for foreign legal persons explicitly authorised by a European Union Member State, according to its legislation, for the provision of services of armed escort on board ships of its nationality.

Application for the permit referred to in paragraph 1 of this Article can be submitted to the Ministry by a domestic or foreign legal person who provides services of embarkation of armed security personnel, i.e. a company on behalf of the legal person.

Enclosed with the application shall be the documentation proving that the legal person meets the conditions prescribed in Article 22e of this Act.

A domestic legal person who provides services of armed escort of ships, prior to obtaining the permit referred to in paragraph 1 of this Article, shall submit to the Ministry the decision based on which the minister competent for internal affairs granted his or her exempt approval for the procurement of firearms from category A and category B of the Weapons Act, whereas a foreign legal person shall submit a written proof of legal procurement of firearms from category A and category B of the Weapons Act, in conformity with the legislation in its State of residence.

No appeal shall be allowed against the decisions from paragraph 1 of this Article; however, an administrative dispute may be initiated.

Article 22g

The ship operator shall ensure that all crew members, before their embarkation, or before embarkation of armed security personnel, are informed about the embarkation of the armed security personnel and familiarised with applicable regulations, measures and procedures, and they shall be given the possibility not to embark on such ship, i.e. to disembark from such ship, as well as to provide for their return to the place of their permanent residence or to the next appropriate port from which they can continue the journey.

Where seafarers exercise their right to refuse embarkation, i.e. request disembarkation referred to in paragraph 1 of this Article, the seafarers shall not bear any negative consequences."

Article 4

In Article 27, after paragraph 9, paragraph 10 is added to read as follows:

"A copy of the Plan can be submitted to the Ministry in electronic form."

Article 5

Article 28 is amended to read as follows:

"All persons and vehicles that continuously or periodically perform specific activities or are permanently or periodically located in the area of the port or port facility referred to in Article 3 of this Act must have identification cards.

By way of derogation from the provision of paragraph 1 of this Article, passengers and vehicles embarking or disembarking on or off board, as well as crew members, do not need to have identification cards.

The identification card referred to in paragraph 1 of this Article must be carried or kept in a visible place during stay in the area referred to in paragraph 1 of this Article.

Identification cards for persons and vehicles referred to in paragraph 1 of this Article shall be issued by the port authority or the concession holder of a special purpose port.

Persons referred to in paragraph 1 of this Article shall fulfil general and special requirements for issuing identification cards, except for visitors.

Verification of fulfilment of general terms shall be performed by the port authority or the concession holder of special purpose port and verification of special requirements by competent police department or police station.

Verification of special requirements shall include processing of data on criminal and misdemeanour activities, as well as those activities that were registered in data collections of the Ministry of the Interior, according to regulations on personal data protection.

Condition for issuing identification cards, procedure for issuing, contents and layout of identification cards and categories of persons and vehicles eligible for identification cards shall be regulated by the minister.

The port authority or concession holder of a special purpose port shall keep records of issued, lost and returned identification cards, as well of those destroyed according to the decision of a commission.

The port facility security plan shall include the method of issuing, withdrawal or destruction of identification cards, as well as of declaring them lost, the forms of identification cards and the process of keeping records of identification cards referred to in paragraph 1 of this Article."

Article 6

In Article 30 paragraph 4, the words: "previous inspection" are replaced by the words: "renewal inspection".

Article 7

In Article 33, after subparagraph 15, subparagraph 16 is added to read as follows:

"– planning and implementation of security drills and exercises in port facilities."

Article 8

After Article 45, Article 45a is added to read as follows:

"Article 45a

An appeal may be filed against the decision of the navigation safety inspector of the harbourmaster's office and the Ministry, as well as of other duly authorized officials of this Ministry, to the Appeal Commission within the Ministry, whose members are appointed by the Government of the Republic of Croatia.

The Commission referred to in paragraph 1 of this Article shall be composed of two permanent members of which one shall be the president of the Commissions and the other shall be a non-permanent member.

The permanent member of the Commission referred to in paragraph 1 of this Article can be a person who has finished a university graduate study in law, thus acquiring an academic title of master of laws, and who has at least four years of work experience in management; the non-

permanent member can be a person who has finished a university graduate study in maritime affairs, thus acquiring an academic title of master of vessel traffic engineering, or a university graduate study in traffic engineering, thus acquiring an academic title of master of traffic engineering, or a university graduate study in economics, thus acquiring an academic title of master of economics, or a university graduate study in law, thus acquiring an academic title of master of laws, and at least four years of work experience.

An appeal lodged against the decision from paragraph 1 of this Article shall not postpone its execution.

The Commission shall adopt the Rules of Procedure."

TRANSITIONAL AND FINAL PROVISIONS

Article 9

The minister shall, with prior consent of the ministry competent for internal affairs and the ministry competent for the defence, within 3 months from the day of entry into legal force of this Act, adopt a regulation about conditions to be fulfilled by authorised legal persons who provide services of embarkation of armed security personnel on board ships of Croatian nationality (Article 3, in the part referring to Article 22e).

Article 10

The minister shall, within three months from the day of entry into legal force of this Act, adopt a regulation about conditions for issuing identification cards, procedure for issuing, contents and layout of identification cards and categories of persons and vehicles eligible for identification cards (Article 5).

Article 11

This Act shall enter into force on the 8th day after its publication in the Official Gazette, except for the provisions of Article 2 of this Act in the part referring to Article 3 paragraph 6 which enters into force on 1 January 2013.

Class: 342-25/12-01/01

Zagreb, 18 May 2012

CROATIAN PARLIAMENT

Speaker of the Croatian
Parliament

Boris Šprem, m. p.