Maritime Law Association of Slovenia
(MLAS)
University of Ljubljana
Faculty of Maritime Studies and Transport
Pot pomorščakov 4
6320 Portorož
Republic of Slovenia
Tel: (386 66) 477-100
Fax: (386 66) 477-130

1. A BRIEF EXCURSION INTO HISTORY

The roots of the Maritime Law Association of Slovenia (MLAS) can be traced back to the time prior to 1991 when Slovenia became independent and clearly lead to the Koper and Ljubljana Section of the Yugoslav Maritime Law Association. Among the most active members of the former “Section” were Anton Kariž and Rasto Plesničar, who, together with their colleagues, “prepared the ground” for the then unthought-of independent Slovenian association.

Only one day after the Republic of Slovenia was internationally recognised, i.e. on the 16th January, 1992, the first (independent, Slovenian) Maritime Law Association of Slovenia was founded with its seat at the premises of the leading Slovenian shipowner, Splošna plovba, 55, Obala, Portorož. Mag. Gregor Velkaverh was elected President; other Members of the Executive Committee were Prof. Dr. Marko Ilešič, Mag. Andrej Pirš and Rasto Plesničar. The Secretary was Anton Kariž, Co-ordinator Dr. Marko Pavliha. The Supervisory Board was composed of Jože Možek (unfortunately now diseased), Lojze Peric and Mag. Josip Rugelj.

The role of the MLAS is to study maritime law, to promote its development and reputation, co-operate with government in the process of preparing marine-related legislation, to facilitate international uniformity of law, to promote the harmonisation of Slovenian legislation with the acquis communautaire as well as to offer assistance and consulting services on maritime law to natural and legal persons (Article 5 of the Articles of MLAS). The MLAS advances its objectives through conferences and discussions, by participating in meetings of the International Maritime Committee (Comité Maritime International - CMI) as well as by investigating and drafting proposals for international agreements and domestic regulations (Article 6 of the Articles of MLAS).

Towards the end of 1993, the MLAS became a member of CMI, a non-government, international organisation established in 1897, currently unifying 55 national maritime law associations. In just above 100 years of its existence, CMI has brought forward a considerable number of maritime conventions, thus making a significant contribution to the uniformity of maritime law. Membership in such an organisation is, therefore, of very high importance to the MLAS.

1 This report has been prepared for the CMI 1999 Annual Assembly in New York, 8 May 1999.
In its first “independent” period, the MLAS addressed an open letter to the government, drawing attention to the government’s careless attitude towards the role of maritime affairs in Slovenia; it organised a round-table discussion on the so-called Hamburg Rules and actively co-operated in the preparation of the new Maritime Code. In addition, it was admitted to the Federation of Lawyers’ Associations of Slovenia.

2. ELECTION OF NEW OFFICERS

New executive elections were held at the General Meeting on 10 October 1997. Executives were elected for a three-year term of office, that is until 10 October 2000, with the possibility of being reelected. The members of the Supervisory Board and the Honorary Court of Arbitration were elected at the special General Meeting on 12 September 1998.

The “bridge” was taken by the following “officers”:

- **Executive Committee:** Prof. Dr. Marko Pavliha (President)
  Mag. Andrej Pirš (Deputy President)
  Cap. Tomaž M. Jamnik (Treasurer)
  Patrick Vlačič (Secretary)
  Zlatan Čok (Member)
  Selin Mohorič-Peršolja (Member)

- **Supervisory Board:** Cap. Valter Kobeja (President)
  Vincenc Fortuna (Member)
  Mag. Josip Rugelj (Member)

- **Honorary Court of Arbitration:**
  Prof. Dr. Marko Ilešič
  Mag. Gregor Velkaverh
  Anton Kariž

On the initiative of the new leadership, the General Meeting brought forth the following resolutions:

- In order to provide the MLAS with a neutral seat, **the seat of the Association is to be transferred to the University of Ljubljana, Faculty of Maritime Studies and Transport in Ljubljana, Pot pomorščakov 4, Portorož.** Nevertheless, credit should be given to the previous host, the Splošna plovba (the largest Slovenian shipowner) for their huge efforts at enhancing the development and operation of the MLAS.

- The Articles of MLAS are to be amended to allow any foreign citizen promoting the development of maritime law to become member of the MLAS;

- A membership fee of SIT 5,000 (USD 1 = approx. SIT 180) is to be introduced for 1998.

The General Meeting decided to propose the following members of the MLAS to become **Titulary Members of CMI:** Mag. Pirš, Mr. Ivković, Dr. Ilešič, Mr. Kariž, Mag. Rugelj and Dr. Pavliha. The proposed members have contributed considerably to the uniformity of maritime law by participating in various drafting legislative committees in Slovenia, writing articles and books on the subject, teaching and practicing maritime law, as well as by rendering other services in legal and maritime affairs in furtherance of international uniformity of maritime law and related commercial practice.
On Friday, 12 June 1998, the new Executive Committee had its first formal meeting in Portorož to review previous work and develop perspectives for the future, such as an “introductory” meeting with the Croatian Maritime Law Association, a special General Meeting with a “fish picnic” in September and the visit of the famous Professor Tetley to Slovenia in November. Prior to the General Meeting, it was necessary to prepare the amendments to the Articles of Association, a proposal for the formation of sub-committees researching particular issues (pilotage, port services, marine insurance, charter parties, co-operation with CMI; later it showed that the Association had not enough members to form sub-committees) and a strategy for a closer co-operation with CMI. Captain Jamnik reported on the recent CMI meeting in London, which he attended as the first representative of the Slovenian Association at such an event.

The Executive Committee met again in Portorož on Monday, 31 August 1998 and discussed the amendments to the Articles of Association and some other projects that should be finalised by the end of the year.

In 1999, the Executive Committee and Supervisory Board held a joint meeting just before the regular General Meeting on 5 February 1999 to review the annual and financial report, which were subsequently approved in the General Meeting. At the General Meeting the same day, the lawyer Đorđe Ivković was appointed honorary member due to his reputation as one of the best maritime lawyers in the territory of former Yugoslavia. The next meetings of the Executive Committee were on 19 March and 16 April 1999, at which it was decided inter alia that the President would attend the CMI annual meeting to take place on 8 May in New York. Other issues were discussed, such as the CMI membership fee for 1997 (which mistakenly had not been paid by the former leadership), financing of the MLAS (sponsors, membership fees and fees for consulting) and projects in 1999. By the end of the year, the MLAS is to organise a round-table discussions on the draft Maritime Code, (currently in its second reading), transport insurance (presentation of Mag. Pirš’ book), off-shore economic zones, port towage, relations between parties in maritime transport of cargo and on port management. The aforementioned round-table on Maritime Code is scheduled for 19 May 1999.

3. ADMINISTRATIVE AFFAIRS

In the period after 10 October 1997, the MLAS amended the Articles of MLAS and opened its first account; other administrative matters were in relation to projects.

4. ADMISSION OF NEW MEMBERS

In the beginning of 1997, the Association had something more than 20 members. By now, the number has risen to more than 60. In accordance with the Articles MLAS, the membership structure is diverse and interdisciplinary, as members are not only lawyers but also from other professions and trades related to maritime transport.

In the special General Meeting held on 12 September 1998, the first honorary titles were conferred on the Professor William Tetley, Q.C., world famous expert on maritime law of the Canadian McGill University in Montreal, and Geoffrey A. Topp, President of the European Maritime Pilot’s Association. As already mentioned, the regular General Meeting on 5. februarja 1999, also admitted Đorde Ivković, who is a much reputed retired lawyer, as honorary member.
5. PROFESSIONAL ACTIVITIES

5.1. Draft Maritime Code

On 5 December 1997, the MLAS organised a round-table discussion on the draft Maritime Code and formed the following resolutions and standpoints. These were later forwarded to the State Secretary for Marine Affairs:

- the draft Maritime Code should be withdrawn from the parliamentary procedure;
- a joint drafting committee should be formed, composed of representatives of the government and members of the current working group of the Ljubljana Law Faculty. The group should contact and co-operate with other experts whenever necessary;
- the joint drafting committee should collect and study all comments to the draft code, thus preparing a wording that could then be offered for public discussion within the MLAS;
- after the public review and after any corrections are included, the government should table the draft in the Parliament as a “new” bill.

5.2. Maritime Litigation and Arrest of Ships

In response to the suggestion of the shipping agents, on Friday, 16 January 1998, the MLAS organised a round-table discussion on “Maritime Litigation and Arrest of Ships”. The event was held in the premises of the MLAS at the Faculty of Maritime Studies and Transport in Portorož. Mag. Josip Rugelj contributed the introductory lecture, which was followed by a lively discussion. The MLAS adopted a resolution or recommendation addressed to the Slovenian Parliament in support of Article 839 of the draft Maritime Code, which stipulates that for the decision regarding arrest of ships (a special injunction), the competent court is the District Court Koper which has an exclusive jurisdiction over all maritime matters (except interlocutory injunctions) and it is thus more qualified in this regard than the County Court. This court shall also be competent for execution on cargo on board a ship on which the execution is effected. The District Court Koper would have to provide for specialised training of two or three judges in the area of maritime law, which would, in addition to other commercial matters, regularly take on marine affairs (such as marine cargo claims, injunctions, etc.). The same is true for the Court of Appeal Koper, where there is already a maritime law expert, but this is still not enough.

5.3. Ship Register

On Friday, 27 March 1998, the MLAS organised a conference on the »Ship Register«. The introductory speech was given by Captain Tomaž M. Jamnik and was followed by an interesting discussion, as usual. The MLAS took the position that the current situation is best suitable under the present situation, preventing Slovenia to become a “flag of convenience” country; any legal changes (e.g. introducing a parallel register) can only be introduced by considering EU trends and based on economic research.

5.4. Maritime Pilotage

In the meeting of the MLAS on 27 March 1998, Captain Valter Kobeja presented the definition, history and development of pilotage with special emphasis on the actual and legal situation in Slovenia. As there was not enough time for an in-depth discussion, the MLAS
together with the company Piloti d.o.o. organised a round-table discussion on the subject, which was held on Friday, 29 May 1998 in the premises of the wine cellar Vinakoper in Koper. The introductory presentation of the problem was provided by Mr Geoffrey A. Topp, President of the European Maritime Pilots' Association and today honorary member of MLAS. In conclusion, the MLAS decided that Slovenian pilots should prepare a proposal of (new) articles on maritime pilotage for the Maritime Code, which is first to be discussed with the representatives of EMPA and then sent to the Ministry of Transport and Communications. In accordance with this resolution, Piloti d.o.o. sent their proposal to the State Secretary for Maritime transport some time later. They basically argue that the pilot services should be organized in a monopolistic way, because competition diminishes safety in this area.

### 5.5. Stevedoring Contract

On Friday, 12 June 1998, the MLAS organised a round-table discussion titled »Stevedoring Contract«.

Marko Blažič of the Port of Koper presented, in the absence of Lojze Peric, the proposal of the Port of Koper regarding the provisions of the Maritime Code pertaining to stevedoring contracts. The provisions largely base on the *United Nations Convention on the Liability of Operators of Transport Terminals in International Trade* prepared by UNCITRAL and adopted at a diplomatic conference in Vienna on 19 April 1991. According to unofficial data, the convention was signed by five countries but ratified by none so far. The convention will come into effect one year after the deposition of the fifth instrument of ratification, adoption, approval and accession.

The proposal of the Port of Koper comprises 16 Articles (A-P) and appears to be identical to the convention, while in fact it deviates from it, which was the apple of discord in the lively discussion that followed the introductory presentation. After the discussion, the present members of the MLAS reached the decision that the government should be addressed with an appeal to wait with the ratification of the mentioned convention until it is ratified by the majority of EU member states. The Ministry of Transport and Communications should carefully follow the trends in the EU in this field and co-operate with DG 7, the responsible Directorate in the Commission. Any national solution to the above contract which would deviate from the international convention, would be inappropriate; the MLAS therefore proposes that the new Maritime Code should avoid this subject in line with the Croatian example.

### 5.6. Maritime Liens and Conflict of Laws

One of the most important achievements of the MLAS was, no doubt, the visit of Professor William Tetley to Slovenia, which was organised jointly with the University of Ljubljana, Faculty of Maritime Studies and Transport. Among others, Prof. Tetley lectured at the *International Conference on Traffic Science' 98 – »ICTS' 98«* and at the Faculty of Law in Ljubljana as part of the international forum; on Thursday evening, 29 October 1998, he lectured on a special consultation of MLAS on the subject *Maritime Liens and Conflict of Laws*. The lecture was attended by about 50 experts of maritime law and other marine affairs (law teachers, lawyers, representatives of the government, shipowners, agents, insurance companies, etc.). It is particularly important to emphasise the attendance of the Croatian Maritime Law Association, including their President, Professor Dr. Velimir Filipović, who by their presence gave symbolic support to the idea of co-operation between the two
associations. In closing, the President of the MLAS ceremoniously conferred on Professor Tetley the diploma on the appointment as first honorary member of MLAS. This was followed by a cocktail/banquet made possible by some distinguished sponsors.

6. CO-OPERATION WITH CMI

Co-operation with the CMI was mostly in the form of correspondence and telephone conversations. When on 15 May 1998 Tomaž M. Jamnik attended the London conference, it was the first time that a MLAS member participated in such a conference. We felt it vital that we should take part in the conference so that we could present our Association abroad and make contacts. It will also be necessary to attend the next General Meeting in New York in May 1999 and the international conference in Singapore.

The MLAS sent to the CMI a proposal regarding the report on the unification of law in the field of marine transport, as well as answers to the questionnaires on the arrest of ships and on the amendments to the *Athens Convention Relating to the Carriage of Passengers and Their Luggage by Sea (1974)*. Due to limited funds, the representatives of the MLAS could not take part in the meeting of the CMI on the *Draft Convention on Wreck Removal*, which took place in London on 16 October 1998. Currently, the MLAS is researching the law of piracy, standard clauses for Classification Societies and marine insurance and will provide the CMI with answers in the near future.

7. CO-OPERATION WITH GOVERNMENT BODIES

7.1. Meeting with State Secretary Babič

On 17 December 1997, the members of the MLAS met with State Secretary Aldo Babič and informed him of the resolution taken by the MLAS during the round-table discussion on 5 December 1997. The State Secretary underlined that the Ministry of Transport and Communications could not afford to withdraw the draft Maritime Code from the parliamentary procedure as they would lose their position in the queue. The Ministry agreed with the MLAS that a joint drafting committee should be appointed for the Maritime Code composed of representatives of the Ministry and the current working group. The project should be co-ordinated by the representative of the Ministry, Mr Adam Gruenfeld, in co-operation with Professor Dr Marko Ilešič and Doc. Dr Marko Pavliha. MLAS would be included in the preparation of the draft code also formally. Unfortunately, this has never been implemented.

7.2. First meeting with a new State Secretary Roškar

After the resignation of Mr. Babič from the office of State Secretary due to his appointment as Managing Director of the company Casino, his position was taken by Mr. Edvard Roškar, who has long-standing experience in maritime affairs and lectures at the Faculty for Marine and Traffic. The President of the MLAS met with him on 13 August 1998 and, among other things, gave him a detailed presentation of the activities of the MLAS. The new State Secretary was surprised to receive such an account as he had expected to find this area undeveloped and neglected. Furthermore, he was very much in favour of a closer co-operation between the Ministry and the MLAS and promised to study possibilities of financial support.
7.3. Second Meeting with State Secretary Roškar

On 5 November 1998, the President and the Treasurer of the MLAS had a working lunch with the above-mentioned State Secretary. It was agreed that the Ministry of Transport and Communications and MLAS should organise a joint one-day conference with the provisional title “Maritime Commerce: monopoly or competition?”

8. THE FEDERATION OF LAWYERS’ ASSOCIATIONS OF SLOVENIA

On 27 March 1998, representatives of 14 associations, members to the Federation of Lawyers’ Associations of Slovenia, met at the regular meeting in Ljubljana and examined the work of the Federation in the past two years, adopted amendments to the organisation’s rules and elected new executives. It was important for the promotion of MLAS that its President was elected to the Executive Committee upon the proposal of Professor Dr Šime Ivanjko. The President of the Association participated in the Executive Committee meeting on 22 October 1998 in which it was agreed that active members of the Federation would be granted financial support in the amount of SIT 100,000. On 9 December 1998, the President participated in the regular annual meeting of the Federation. The financial report and the rules were adopted so that they comply with the Associations Act (Official Gazette of the RS, No. 60/95). The Federation granted additional financial support for those members who within one week applied for such financial support and paid the membership fee. The General Meeting decided that the membership fee for member associations with less than 100 members should be SIT 5,000, and for those with more than 100 members, SIT 10,000. The Federation should became an active partner in the preparation of Slovenian legislation and it should pay more attention to the position of lawyers, public servants and co-operation with foreign lawyers associations. The President also attended a meeting of the Executive Committee on 5 May 1999.

9. FUNDING

In the beginning of 1998, the MLAS introduced for the first time membership fees on a symbolic level in the amount of SIT 5,000 per member. Activities of the MLAS would thus not be possible if its was not for the following sponsors: Slovenija Lloyd, Jadroagent, Luka Koper, Zveza agencij, Splošna plovba, Inspect Ljubljana, Generali SKB Zavarovalnica, Slovenica zavarovalniška hiša, Mediamar, Federation of Lawyers’ Associations of Slovenia, Adria-Tow, Piloti and the Maritime Transport Administration of the Republic of Slovenia. Since the Association lacks funds especially for a more intensive co-operation with CMI and related associations, even more efforts will have to be made to attract sponsors. Finally, some efforts will also have to be invested to set up a scheme under which members would offer consulting services, the fees for which would go to the Association.

In February 1998, the member Mag. Aleksander Čičerov, State Undersecretary for Aviation at the Ministry of Transport and Communications, donated ad personam to the MLAS a Maritime Encyclopaedia (nos. 1-8, years 1972-1989) as well as ten other publication related to maritime affairs.

10. CONCLUSION

The Maritime Law Association of Slovenia holds to the principle “if we understand, we act, if not, we have not understood”. The steady flow of new members encourages us to
explore new ways, bearing in mind the old reefs. At the same time, we must not forget that social events are a vital part of every association. We are proud of our interdisciplinary members since lawyers tend to solve problems by creating new riddles. But usually when we get too much caught up in our legal enthusiasm, we are stirred by our “non-legal” colleagues and kindly reminded to use law for the solving of practical problems. Furthermore, it has to be assured that the interests of individual groups do not become dominating, be it of lawyers, judges, law teachers, agents, pilots, freight-forwarders, tradesmen, purchasers, consignors, consignees, insurers, reinsurers, stevedores, shipowners or any other buyers or sellers of maritime services.

It is not so long that we have set sail and we know there is a long and difficult voyage ahead. But we are sailing under the flag of fair justice and are confident that we shall reach the destinations we have marked out sooner or later.

Ljubljana, 26 April 1999

Dr. Marko Pavliha

President