

**IMPLEMENTATION OF THE
MARITIME LABOUR
CONVENTION 2006
EXPERIENCE OF THE
REPUBLIC OF BULGARIA**




Bulgarian Maritime Administration
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PRESENTATION HIGHLIGHTS





- Overview of the Executive Agency “Maritime Administration” (EAMA), Bulgaria
- The Bulgarian Legislation and the Maritime Labour Convention 2006



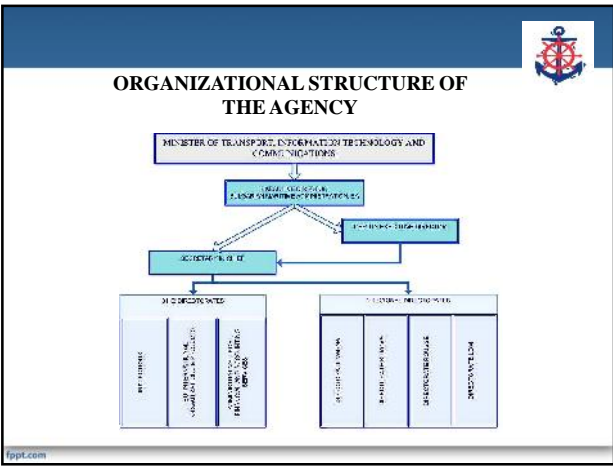
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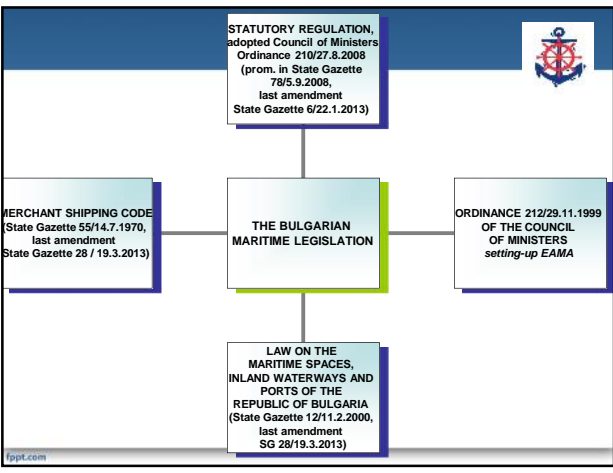
The Executive Agency “Maritime Administration” (Bulgarian Maritime Administration (BMA)) is a specialized administrative structure to the Minister of Transport, Information Technology and Communications of the Republic of Bulgaria. It was established by Decree of the Council of Ministers on the 29th November, 1999.

The Agency is a legal entity based in Sofia with regional offices in Burgas, Varna, Lom and Russe. The status of the BMA is regulated by the Bulgarian Merchant Shipping Code - Art. 360, para. 1. The Bulgarian Maritime Administration organizes and coordinates activities related to the shipping and ports in the sea spaces and inland waterways of the Republic of Bulgaria and provides the actual liaison between the government and the ships flying the Bulgarian flag.



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The Bulgarian Legislation and The Maritime Labour Convention 2006

- ✓ The Maritime Labour Convention 2006 is ratified by a law.
- ✓ The law was adopted by the 40th National Assembly on 27.05.2009 (promulgated, SG. 42 of 2009) and entered into force on 20.08.2013.
- ✓ Pursuant to art. 5 para. 1 of the Convention, each State is required to adopt and bring into force the laws or regulations or other measures by which to perform its obligations thereunder.
- ✓ The choice of legislation to regulate the labour relations of seafarers working on board a ship flying the flag of States - Members of the International Labour Organisation (ILO) depends on the legal system of the country.

The Bulgarian Legislation and The Maritime Labour Convention 2006



Making effective use of the time before the Maritime Labour Convention enters into force

The Bulgarian Legislation and The Maritime Labour Convention 2006

In 2010 by Order of the Minister of Transport, Information Technologies and Communications a Working Group was formed with the task to develop legislation to implement the Maritime Labour Convention 2006.

2010 Working Group to develop legislation to implement the MLC 2006

- Draft of ORDINANCE No. 5 from 01.09.2004 related to ships documents
- DRAFT of ORDINANCE No. 12 on Port State Control Inspections
- Ordinance on Labor and Directly Associated Relations between the Crew and Shipowner

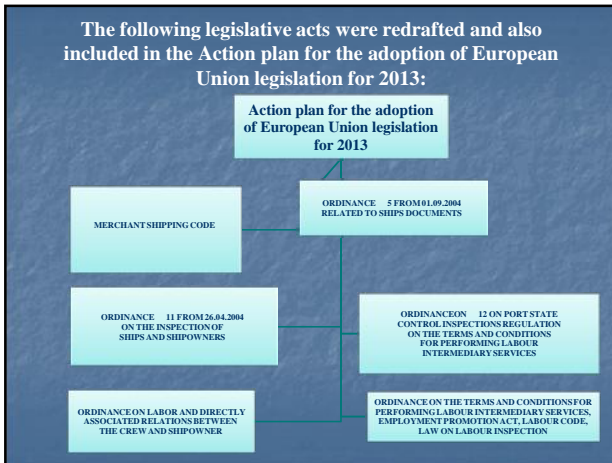
The Bulgarian Legislation and The Maritime Labour Convention 2006

In 2012 new Order of the Minister of Transport, Information Technologies and Communications was issued to review the work of the Working Group set up in 2010.

The Working Group from 2012 developed legislation to bring into full compliance the requirements of the Maritime Labour Convention 2006, taking into account:

- The newly developed Directive on the obligations of the flag administration to bring into force Council Directive 2009/13/ES implementing the Agreement concluded by the Association of European Community Shipowners (ECSA) and the European transport Workers' Federation (ETF) on the Maritime Labour Convention, 2006 year and amending Directive 1999/63/ES and Directive of the European Parliament and of the Council amending Directive 2009/16/ES on Port State Control.

The following legislative acts were redrafted and also included in the Action plan for the adoption of European Union legislation for 2013:



MERCHANT SHIPPING CODE (MSC)
(State Gazette 55/14.7.1970, last amendment SG 28/19.3.2013)



Article 88b (to be amended)

In accordance with the current provisions of Art. 88b, para. 1 of the MSC, the specific requirements regarding the terms for employment of seafarers, the conclusion of employment contract, repatriation, working hours and holidays, overtime and the use of annual leave are in the Ordinance on Labor and Directly Associated Relations between the Crew and Shipowner (adopted by Decree 226 of the 2003 prom., SG. 93 of 2003, amended. 96 of 2005). Under Decision 2 of 08.03.2012 on case 9/2011 (promulgated, SG. 23 of 2012).

Constitutional Court of the Republic of Bulgaria has ruled that the Ordinance issued pursuant to Art. 88b, para. 1 of the MSC, the Council of Ministers also regulated outstanding in the Merchant Shipping Code public relations.

This ordinance does not repeal the application of the Labour Code (LC), but specify the characteristic of direct labor and associated relations between the crew of the ship and the shipowner.

MERCHANT SHIPPING CODE (MSC)
(State Gazette 55/14.7.1970,
last amendment SG 28/19.3.2013)

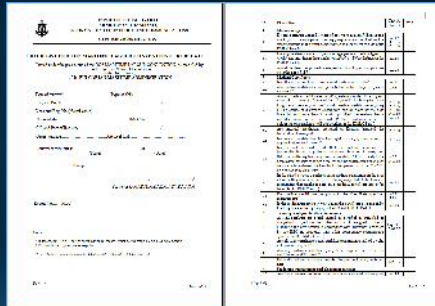


Significant part of the provisions of the Labour Code on working hours, breaks and holidays are mandatory in nature. This requires any deviation from them to be regulated by a normative act to the same extent as the Merchant Shipping Code.

The amendment of art. 88b aims to create a mechanism to accurately record working time of seafarers to use the breaks and compensation for unused vacations with additional weekly holiday ashore after repatriation or exception - with payment.

CHECK LIST FOR THE MARITIME LABOUR CONVENTION CERTIFICATE

Issued under the provisions of the 2006 MARITIME LABOUR CONVENTION, as modified by and Bulgarian National Legislation under the authority of the Bulgarian Maritime Administration



ORDINANCE 11 FROM 26 APRIL 2004 ON THE INSPECTION OF SHIPS AND SHIPOWNERS

(Issued by the Minister of Transport and Communications, promulgated in State Gazette No.52/18 June 2004, last amendment 2013)



Ordinance 11 introduces the requirements of Chapter 5 of the Maritime Labour Convention, 2006, Rule 5.1. Responsibilities of the flag State. The aim is to ensure that each Member State fulfills its obligations under the Convention with respect to ships flying its flag.

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ORDINANCE 12 ON PORT STATE CONTROL INSPECTIONS

Issued by the Minister of Transport and Communication, published in State

Gazette 59 from 2003, last amendment – SG 101 from 2013

Extension of the scope of the Ordinance by creating a new paragraph, which provides for the inspection of living and working conditions of seafarers on board a ship to visit the port of the Republic of Bulgaria or a place to moor, to ensure that the working conditions and lives of the sailors on board the ship, meet the requirements of the Maritime Labour Convention 2006 and the applicable national legislation, including the rights of seafarers.

Addition of a new paragraph related to the type of inspections assuming the Maritime Labour Certificate and the Declaration of Maritime Labour Compliance standards required under the Maritime Labour Convention, 2006, as prima facie evidence of compliance with the same, including the rights of seafarers and except as provided in the Code of Convention cases when inspections are limited to checking the license and declaration.



ORDINANCE 12
ON PORT STATE CONTROL INSPECTIONS

Issued by the Minister of Transport and Communication, published in State Gazette 59 from 2003, last amendment – SG 101 from 2013

- ✓ Creating new subparagraphs in conjunction with an in-depth examination, including operational control when the conditions of life and work, which are deemed or alleged to be inconsistent with the requirements clearly hazardous to safety, health or security of seafarers or when the inspector has a reason to believe that any non-compliance is a serious violation of the requirements of the Maritime Labour Convention 2006, including with regard to the rights of seafarers;
- ✓ Create new paragraphs in relation to the handling of findings and retention as a result of the inspectors under the depth examination that the vessel does not meet the requirements of the Maritime Labour Convention, 2006. In case of wrongful detention the burden of proving alleged undue detention or delay of a vessel is borne by the shipowner of the ship;
- ✓ Amendment of paragraphs and creating new ones of the same article in relation to the handling of all complaints of seamen on board of ships visiting the Bulgarian ports and in which complaints alleged violation of the requirements of the Maritime Labour Convention 2006, including in connection with violation of the rights of seafarers.

Ordinance on the Terms and Conditions for Performing Labour Intermediary Services, Employment Promotion Act, Labour Code, Law on Labour Inspection

- The abovementioned acts transpose the requirements of Regulation 1.4 and Standard A1.4 Recruitment and Placement.
- Both public (the National Employment Agency) and private seafarers recruitment and placement services (PSRPS) operate in Bulgaria.
- The same legislative requirements apply to the public and private services.
- The above Bulgarian legal documents regulate in detail the activity of the private seafarers recruitment and placement services.
- The operational performance of the private services is strictly and regularly controlled by the Executive Agency “Labour Inspectorate”.

Ordinance on the Terms and Conditions for Performing Labour Intermediary Services, Employment Promotion Act, Labour Code, Law on Labour Inspection

Major challenges related to the transposition of Standard A1.4:

- Standard A1.4, 5 (c), (iv) – PSRPSs to make sure, as far as practicable, that the shipowner has the means to protect the seafarers from being stranded in a foreign port.
 - ❖ criteria against which the fulfilment of this requirement can be verified could hardly be identified;
 - ❖ the phrase “as far as practicable” is quite general and interpretation thereof can be very subjective.

Ordinance on the Terms and Conditions for Performing Labour Intermediary Services, Employment Promotion Act, Labour Code, Law on Labour Inspection


Major challenges related to the transposition of Standard A1.4: (contd)

- Standard A1.4, 5 (c), (vi) – the PSRPSs to establish a system of protection, by means of insurance or an equivalent appropriate measure, to compensate seafarers for potential monetary losses, caused by the PSRPS or the shipowner

The difficulties in transposing this requirement were related to:


- the very general scope of the phrase “equivalent appropriate measure” the interpretation of which can be quite ambiguous
- the great variety of compensatory mechanisms used by the different shipowners (insurance, bank guarantee, member’s card, etc.) makes it hard to choose only one or few thus posing unjustified limits to the shipowners and the PSRPSs.

Ordinance on Labor and Directly Associated Relations between the Crew and Shipowner
(adopted by Decree 226 of the 2003 prom., SG. 93 of 2003, amended 96 of 2005) Under Decision 2 of 08.03.2012 on case 9/2011 (promulgated, SG. 23 of 2012)



In this Ordinance are implemented:

- ✓ Regulation 2.1 Seafarers’ employment agreement and Standard A 2.1, A 2.2 and A 2.3;
- ✓ Guideline B 2.5, 2.3 and 2.2, 3.1.11 .4 from the Maritime Labour Convention 2006
- ✓ Regulation, Standard and Guideline 4.4 the Maritime Labour Convention 2006
- ✓ Standard 4.1, .1 the Maritime Labour Convention 2006, Standard 4.2, A 4.3
- ✓ Regulation 5.1.5 – Procedures for on-board complaints.



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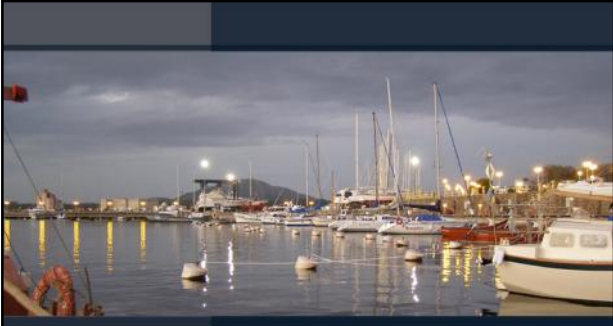
Information for the Contact points for seafarers to lodge complaints relating to any matters that constitute a breach of the requirements of the Maritime Labour Convention 2006
Date for entry into force of the Maritime Labour Convention 2006 - August 20th, 2013

CASES	CONTACT POINT
1. In case of seafarer employed on a ship flying Bulgarian flag (regardless of the fact that the seafarer has signed a contract with a manning agent or shipowner/operator) the contact point for lodging complaints relating to any matters that constitute a breach of the requirements of the Maritime Labour Convention 2006 is:	General Labour Inspectorate Executive Agency Address: Sofia 1000; 3, Dondukov Boulevard e-mail: secr-elssecretar@gl.government.bg Phone: (+359 2) 988 51 72
2. In case the seafarer is employed on a ship flying foreign flag without signing a contract with a manning agent the contact point for lodging complaints relating to any matters that constitute a breach of the requirements of the Maritime Labour Convention 2006 are the Flag State Administration and Bulgarian Maritime Administration:	Bulgarian Maritime Administration Address: Sofia 1000; 9, Diakon Ignatii str. e-mail: bmad@marad.bg Phone: (+359 2) 930 09 10 Contact point of the Flag State Administration - information for each Contact point of the Flag State Administration can be found on www.ilo.org

Information for the Contact points for seafarers to lodge complaints relating to any matters that constitute a breach of the requirements of the Maritime Labour Convention 2006
Date for entry into force of the Maritime Labour Convention 2006 - August 20th, 2013

CASES	CONTACT POINT
3. In case the seafarer is employed on a ship flying foreign flag and has signed a contract with a manning agent the contact point for lodging complaints relating to any matters that constitute a breach of the requirements of the Maritime Labour Convention 2006 are General Labour Inspectorate Executive Agency and the Flag State Administration:	General Labour Inspectorate Executive Agency Address: Sofia 1000; 3, Dondukov Boulevard e-mail: secr-adssecretar@ali.government.bg Phone: (+359 2) 988 51 72 Contact point of the Flag State Administration – information for each Contact point of the Flag State Administration can be found on www.ilo.org

*A competent, rested and well motivated crew is an essential factor in reducing operational costs by efficiency, safe operations and protecting the owner's investment in expensive vessels and equipment...,
 "The quality of the industry (shipping) ultimately depends on the quality of the people (seafarers) in it."
 International Commission on Shipping*



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**Thank you for your attention!
 Any questions?**

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