



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

**Bulgarian Maritime Administration
Anna Mihneva – Natova**

Director of Directorate “European Union, International Relations and Projects”



anna.natova@marad.bg

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

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**

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graph TD; A[2010 Working Group to develop legislation to implement the MLC 2006] --> B[Draft of ORDINANCE No. 5 from 01.09.2004 related to ships documents]; A --> C[DRAFT of ORDINANCE No. 12 on Port State Control Inspections]; A --> D[Ordinance on Labor and Directly Associated Relations between the Crew and Shipowner];
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**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 14/2015)



Article 88b amended 2013

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

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.

ORDINANCE № 5 FROM 01.09.2004 RELATED TO SHIPS DOCUMENTS

(State Gazette 88 / 2004,
last amendment SG 7/ 2015)



Addition of new articles 58a, 58b, 58c and 58d.

1. **Maritime Labour Certificate** (annex № 62), which certifies that the vessel has been inspected and checked for compliance with the requirements of the Maritime Labour Convention, 2006 and set out in the attached Declaration of Conformity with the Maritime Labour Convention, 2006 . The document is issued without a declaration of conformity with the Maritime Labour Convention, 2006
2. **Declaration of compliance with MLC part I** (Declaration of Maritime Labour Compliance - Part I) (annex № 63), which certifies that the vessel is maintained in accordance with the standards of the Convention A 5.1.3.
3. **Declaration of Compliance with MLC part II** (Declaration of Maritime Labour Compliance - Part II) (annex № 64), showing that the shipowner specified in the maritime labour certificate has taken measures to ensure continued compliance with the requirements of the ship between inspections.
4. **Interim Maritime Labour Certificate** (Interim Maritime Labour Certificate) (annex № 65), stating that:
 - a) the ship is inspected on the Appendix-I A5 to the Maritime Labour Convention, 2006, and is fulfilled specified in b. "B" - "d" below;
 - b) the shipowner has submitted evidence to the Executive Agency "Maritime Administration" or an organization recognized by it that the ship has in place procedures to ensure compliance with the Convention;
 - c) the master is familiar with the requirements of the Convention and the responsibilities for its implementation;
 - d) the Executive Agency "Maritime Administration" or an organization recognized by it is provided with the information in accordance with the Declaration of Maritime Labour Convention.

Declaration of Maritime Labour Compliance – Part I

REPUBLIC OF BULGARIA
MINISTRY OF TRANSPORT,
INFORMATION TECHNOLOGY AND COMMUNICATIONS

MARITIME LABOUR CONVENTION 2006

Declaration of Maritime Labour Compliance – Part I

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

Issued under the authority of the Government of the Republic of Bulgaria
by The Maritime Administration of Bulgaria

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

| Name of ship | IMO Number | Gross tonnage |
|--------------|------------|---------------|
| | | |

is maintained in accordance with Standard A5.1.3 of the Convention.

The undersigned declares, on behalf of the abovementioned competent authority, that:

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

1. Minimum age
(Regulation 1.1)

Ordinance for labour and directly connected relations between the members of a crew of a ship and a shipowner, dated 14.10.2003

Chapter 2 – Work relations, Section 1, Article 4, Paragraphs 1 and 2 - Minimum age requirement for employment on a ship is 18 years. Young persons under and between 16 and 18 years old are allowed to carry out on board training.

Persons under the age of 18 are not allowed to carry out training during night hours, unless when the training program requires the fulfilment of their duties during night hours and there is no threat to their health. Night work shall be work performed between 10.00 p.m. and 6.00 a.m. (Article 27)

2. Medical certification
(Regulation 1.2)

Merchant Shipping Code (Last amended SG 28/2013)
Chapter 5 – Articles 87 (4) - requires all seafarers to pass medical examination in accordance with Ordinance of Minister of Transport and Minister of Public Health

Draft of the Ordinance on medical fitness of the seafarers – stipulates standards for medical fitness based on ILO/WHO Guidelines for conducting pre-sea and periodic medical fitness examination for seafarers, maximum period of validity of certificate shall be two years for persons between 18 and 60 years.

Ordinance No. 6/ 05.04.2012 for the competency of seafarers in the Republic of Bulgaria

Chapter 3 – Medical fitness

Articles 12 – Every crew member of a ship flying Bulgarian flag or candidate for certification shall meet the medical fitness standards for service in the relevant capacity.

Declaration of Maritime Labour Compliance – Part II

Приложение № 64
към чл. 58е

MARITIME LABOUR CONVENTION, 2006

Declaration of Maritime Labour Compliance – Part II

Measures adopted to ensure ongoing compliance between inspections

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

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

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

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

Name of shipowner:

Company address:

(Seal of the shipowner)

Name of the authorized signatory:

Title:

Signature of the authorized signatory:

Date:

The above measures have been reviewed by Maritime Administration of Bulgaria and, following inspection of the ship, have been determined as meeting the purposes set out under Standard A5.1.3, paragraph 10(b), regarding measures to ensure initial and ongoing compliance with the requirements set out in Part I of this Declaration.

Name:

Title:

Address:

(Seal of the authority)

Signature:

Place:

Date:

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

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



REPUBLIC OF BULGARIA
MINISTRY OF TRANSPORT,
INFORMATION TECHNOLOGY AND COMMUNICATIONS
MARITIME ADMINISTRATION

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

Type of survey*..... Type of ship:.....
Flag and Reg.No:...../.....
Class and Reg. No.(if applicable)...../.....
Name of ship:.....IMO No.....
C/S and Port of Registry:...../.....
Gross tonnage:..... Date keel laid:.....
Survey carried out at:.....on.....
(Place) (Date)

Stamp

.....
Surveyor to MARITIME ADMINISTRATION

Report No.....MLC

Notes:

2.If the check-list is used for certification purposes, must be followed by Ship Survey Report
3.Entries in the figure are as required:

*/ Insert the type of survey from among the dedicated Initial-(I), Renewal - (R), Intermediate-(Ie)

[Type text]

| No | Check Item | Part A Part B | Y/N |
|----------|--|---|-----|
| 1 | Minimum age | | |
| 1.1 | Do any seafarers under 18 years of age work at night? If so, is this work part of a recognised training programme or is it of such a specific nature that it must be performed at night? (ref to Flag State DMLC Part I) | A1.12 A1.13a A1.13b | |
| 1.2 | Do any seafarers under 18 years of age perform certain types of work* that may harm their health or safety? (* To be defined in the DMLC Part I) | A1.14 | |
| 1.3 | Are all seafarers employed or engaged or working as a ship's cook over the age of 18? | A3.28 | |
| 2 | Medical Certificates | | |
| 2.1 | Do all seafarers on board have a valid medical certificate? | A1.21 | |
| 2.2 | Are medical certificates dated prior to the seafarer beginning work on board? | A1.21 | |
| 2.3 | Are all medical certificates valid? (Seafarers under 18 - 1 year; otherwise - 2 years). Colour vision - 6 years*. If it is expired, how long has it been expired for? - with medical certificates expiring during course of a voyage exemptions can be given by the Flag State for not more than 3 months provided the seafarer has a recently expired medical certificate. (* Those seafarers requiring a colour vision certificate will be specified in the DMLC Part I) | A1.27a A1.27b A1.28a A1.28b A1.29 | |
| 2.4 | Are medical certificates provided in English (required for international voyages)? | A1.210 | |
| 2.5 | Do medical certificates state that sight, hearing (colour vision if applicable) are satisfactory? | A1.26a | |
| 2.6 | Do medical certificates state that the seafarer concerned is: (a) medically fit to perform the duties they are to carry out (b) is not suffering from any medical condition* that is likely to be aggravated by service at sea or to render the seafarer unfit for such service or to endanger the health of other persons on board? (* To be defined in DMLC Part I) | A1.21 A1.26b | |
| 2.7 | In the case(s) where a seafarer has a medical restriction on the type of work they can undertake is this being respected? (The kinds of restrictions that might appear on a medical certificate are to be found in the DMLC Part I) | A1.25 | |
| 2.8 | Do medical certificates comply with the Flag State specified requirements? | A1.22 B1.21 | |
| 2.9 | Is the medical practitioner who issued the certificate recognised by the Flag State as being duly qualified? (Ref. DMLC Part I) | A1.24 | |
| 3 | Training and qualification documents | | |
| 3.1 | Are all seafarers on board trained or certified or qualified as competent to perform the duties and work assigned to them? (Training and certification in accordance with instruments adopted by the IMO are accepted; with other competency requirements specified in the DMLC Part I) | Reg 1.3.1 Reg 1.3.3 | |
| a | Are all such certification and qualifications training still of a valid date and not expired? | | |
| b | Are any seafarers undertaking any tasks they are not trained or certified or qualified to do? | | |
| 3.2 | Have all seafarers completed training for personal safety on board ship? | Reg 1.3.2 | |
| 4 | Seafarers' recruitment and placement services | | |
| 4.1 | Are there seafarers on board who have been recruited and engaged | A1.49 | |

[Type text]

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 SG No.5/ 2015)



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.

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 № 85/ 2014

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 № 85/ 2014

- ✓ 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, last amended № 32/ 2014)
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 lack of Bulgarian Seafarer Collective Agreement, A 2.2 and A 2.3;
- ✓ Guideline B 2.5, 2.3 and 2.2, B 3.1.11 т. 4 from the Maritime Labour Convention 2006
- ✓ Regulation, Standard and Guideline 4.4 the Maritime Labour Convention 2006
- ✓ Standard A 4.1, т.1 the Maritime Labour Convention 2006, Standard A 4.2, A 4.3
- ✓ Regulation 5.1.5 – Procedures for on-board complaints.



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

Maritime Labour Convention 2006 entered into force for the Republic of Bulgaria on August 20th, 2013

| CASES | CONTACT POINT |
|---|---|
| <p>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:</p> | <p>General Labour Inspectorate Executive Agency Address: Sofia 1000; 3, Dondukov Boulevard e-mail: secr-glsecretar@gli.government.bg Phone: (+359 2) 988 51 72</p> |
| <p>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:</p> | <p>Bulgarian Maritime Administration Address: Sofia 1000; 9, Diakon Ignatii str. e-mail: bma@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</p> |

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

Maritime Labour Convention 2006 entered into force for the Republic of Bulgaria on August 20th, 2013

| CASES | CONTACT POINT |
|--|---|
| <p>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:</p> | <p>General Labour Inspectorate Executive Agency Address: Sofia 1000; 3, Dondukov Boulevard e-mail: secr-glsecretar@gli.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</p> |

Additional information regarding the entry into force of the Maritime Labour Convention 2006 for the Republic of Bulgaria

- **National recognition:** The competent authorities of the Republic of Bulgaria did not take any decisions in respect of (I) certain categories of persons not to be defined as seafarers, (II) Convention not to be applicable to certain categories of ships and (III) some parts of the Code not to be applicable to certain categories of ships.
- **Authorization of recognized organizations:** Executive Agency Maritime Administration did not authorize recognized organizations to perform surveys and certification in accordance with the Maritime Labour Convention 2006.

- **Port State Control:** The reports of the authorized employees which have found that the working and living conditions on board the ships are not in accordance with the MLC 2006 shall be sent to the Secretary General of the Maritime Labour Organization. The reports are subject to detail inspection in accordance with the Port State Control Inspection.
- **Complaints:** The Republic of Bulgaria shall send to the Secretary General of International Labour Organization copies of the reports of the authorized employees in respect of any unsolved complaints on board the ships entering Bulgarian ports. Since 2014 in the annual implementing reports for the MLC 2006 the Republic of Bulgaria shall send to the Director-General of International Labour Organization statistics and information in respect of the solved disputes and complaints.

First annual report on the MLC 2006

- Republic of Bulgaria has presented the first annual report (for the period 20.08.2013 to 20.08.2014) on the Maritime Labour Convention of 2006, including the specified measures for implementation, the fundamental rights and principles, law enforcement, as well as the statistical data;
- The Republic of Bulgaria has received approx. 15 disputes and complaints according to MLC 2006. The Bulgarian Maritime Administration has carried out port state control inspections in accordance with the MLC's Standards and provided the statistical data in this respect to the Director-General of ILO.

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



Anna Mihneva – Natova
anna.natova@marad.bg

Thank you for your attention!
Any questions?