



## Implementation of the MLC Convention in Albania and its Role in Seafarer's Standards

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### Abstract

The Maritime Labor Convention (MLC) is an international labor standard adopted by the International Labor Organization (ILO) in 2006 [1]. The MLC was designed to ensure that seafarers receive decent working conditions on board ships, without any difference regardless their nationality. The convention sets out minimum requirements to be met by authorities, shipping companies, for seafarer's employment rights, working conditions, and social protection. Convention, 2006, as amended (MLC 2006) on 28 Oct [2] 2016, and the convention entered into force in Albania on 28 October 2017. The amendments of the Code of the Convention approved by the International Labor Conference (ILC) in 2018 entered into force in Albania on 26 December 2020. The aim of this paper is to examine the implementation of MLC requirements and its impact in Albanian maritime industry, and to identify the needed steps to be undertaken by Albanian maritime authorities to fully comply with MLC requirements.

**Keywords:** MLC-maritime labor convention, Albanian ship's, seafarer, working conditions

### 1. Introduction

MLC has come into force in August 20, 2013, and has been ratified by 97 countries representing 97% countries representing 91,8% of the world's shipping tonnage. The convention applies to all ships engaged in commercial operations, including passenger ships, cargo ships, and fishing vessels. The MLC requires shipowners to provide seafarers with a written employment contract that complies with requirements of the convention. The agreement/ contract must include details of the seafarer's job, wages, working hours, leave entitlement, repatriation procedures and all other elements treated in the MLC.

Albania is a candidate country to join the EU, and the alignment of the relevant legislation with that of the European Union and harmonizing rules on safety, environmental protection, and transport is one of the challenges. In that regard, Albania ratified the Maritime Labor Convention, 2006, as amended (MLC 2006) on 28 October 2016 [2], and the

convention entered into force in Albania on 28 October 2017. The amendments of the Code of the Convention approved by the International Labor Conference (ILC) in 2018 entered into force in Albania on 26 December 2020. Concerning the amendments to the Code approved by the International Labor Conference in 2014 and 2016, the ILO is still awaiting notification by Albania.

## **2. Situation in Albania: General Obligations**

Albania has adopted MLC through its Law No. 103/2015 and ratified the Convention on 28 October 2016, and the convention entered into force in Albania on 28 October 2017. There are several authorities responsible for implementing the Convention, starting with

- Ministry of Transport and Infrastructure (Ministry responsible for Maritime Transport);
- Ministry of Finance and Economy (Ministry responsible for labour rights)
- Ministry of Health and Social Protection (Ministry responsible for social protection)
- General Maritime Directorate

Albania has ratified the Tonnage Convention of 1969 through Law No. 8989 dated 23.01.2003 [1]. The leading maritime authority responsible for implementing MLC's provisions is the General Maritime Directorate (GMD) and the Flag State Control under the GMD.

The employment contract is regulated by Law no 7961 [3], dated 12.7.1995 "Labour Code of Republic of Albania" as amended. Still, there are no specific regulations drafted to address the implementation of the MLC Convention, and neither is there any provision for the collective employment agreement.

The Republic of Albania and the Ministry of Infrastructure and Energy, responsible for maritime Transport, have not drafted any dedicated regulation for implementing the MLC Convention to regulate and meet all the required standards outlined in the Convention and the Code.

## **3. Minimum Requirements for Seafarers to Work on a Ship.**

Albania has adopted the minimum age convention of 1973 [4], which sets the minimum age allowed to work. there are provisions for the minimum age in the labour code of the republic of Albania and the maritime code, which do not allow anyone under 16 years of age to be employed on board a ship.

Regarding the night shift hours regulation, there are no specific provisions prohibiting persons under 18 from working in night shifts. No complete provisions to strict compliance with the night work "restriction" may be made by the competent authority when:

1. the practical training of the seafarers concerned, by established programs and schedules, would be impaired; or
2. the specific nature of the duty or a recognized training program requires that the seafarers covered by the exception perform tasks at night, and the authority determines, after consultation with the shipowners' and seafarers' organizations concerned, that the work will not be detrimental to their health or well-being. These provisions are not addressed in the existing legislation.

Regarding jeopardizing the health or safety of the person underage of 18, there are no restrictions or limitations set forth for seafarers' employment, engagement, or work.

Albanian regulation "On the regulation on the minimal level of the seafarers' training" and the Maritime Code of the RA does not allow seafarers to work on a ship unless they are medically fitted and certified.

Seafarer recruitment seems unregulated, and there are no specific rules or regulations to address this activity. An efficient, adequate, and accountable system is missing for finding a job on board a ship. Recruitment is more based on direct contacts than any recruiting office dedicated to seafarer recruitment. This makes it more difficult for the competent authority to supervise and control all seafarer recruitment and placement services operating in Albania.

The information provided to Albanian seafarers signing an employment contract with a ship flying a flag of a country that has not ratified the MLC Convention regarding possible issues that might arise is inexistent.

### *3.1 Conditions of employment*

The convention aims to ensure seafarers have a fair employment agreement that provides safe and satisfactory working and living conditions.

As it was mentioned in the previous Title 1, there does not exist any employment regulation, which means that all terms and conditions of the seafarer's employment contract are based on Law No. 9251 date 08.07.2004 "The maritime Code of the Republic of Albania" [5], » and Law no 7961, dated 12.7.1995 "Labour Code of Republic of Albania" [6] as amended. At the same time, there is no collective bargaining agreement form that could be an integral part of the individual seafarer's employment contract. There are no minimum notice periods to be given by the seafarers and shipowners for the early termination of the seafarer's employment agreement. No provisions for the cases when a seafarer is held captive on or off a ship because of acts of piracy or armed robbery against ships. Payments are not regulated so seafarers can be paid in intervals longer than one month. There are no provisions for transmitting their earnings to their families.

Another unregulated activity is the hours of work and rest. No specific regulation on hours of rest for seafarers. There are some provisions outlined in Order-Nr. 134 of the Minister of Infrastructure and Energy, "On the approval of the regulation on the minimal level of the seafarers' training," [7] the Labour Code of the RA specifies that daily work hours are no more than 8 hours per day. For employees under 18 (but not less than 16), no more than 6 hours per day (Art 78 of the labour code of RA). Records are kept according to ISM Code. No specific provisions according to available ILO guidelines are found in the existing regulatory framework.

The entitlement to leave is also regulated by Law No. 9251, dated 08.07.2004, "The maritime Code of the Republic of Albania," and Law no 7961, dated 12.7.1995, "Labour Code of Republic of Albania," as amended.

Repatriation is defined in the draft contract, but there are no regulations or appropriate provisions in Albanian laws and regulations or other measures or collective bargaining agreements prescribing:

1. the circumstances in which seafarers are entitled to repatriation by paragraphs 1(b) and (c) of this Standard, the maximum duration of service periods on board following which a seafarer is entitled to repatriation such periods to be less than 12 months; and
2. the specific entitlements to be accorded by shipowners for repatriation, including those relating to the destinations of repatriation, the mode of transport, the items of expense to be covered, and other arrangements to be made by shipowners.

Regarding the financial security system to assist seafarers in their abandonment, the Republic of Albania has not yet adopted the relevant amendments.

Any specific law or regulation does not regulate seafarer compensation for the ship loss or foundering.

Ships flying the Albanian flag are issued a minimum manning certificate according to the provisions of Resolution A.1047(27) of 20 November 2011 "Principles of Safe Manning" [8] [8] by GMD. MLC provisions are not implemented; therefore, it is a need to draft regulations regarding the safe manning of ships.

Career skill development and opportunities for seafarers' employment are regulated by the provisions of the STCW convention and Order-Nr. 134 date 27.06.2022 of the Minister of the Infrastructure and Energy "On the approval of the regulation on the minimal level of the seafarers' training". There is no national policy to encourage career and skill development and employment opportunities for seafarers.

### *3.2 Accommodation, Recreational Facilities, Food and Catering*

The MLC Convention and the Code for the ships flying a member's flag, require the member countries to ensure decent accommodation and recreational facilities, food and catering are provided for seafarers on ships flying their flags. The application of the Code is to ships constructed on or after the date of coming into force of this Code. There is no law or regulation adopted by the Republic of Albania after the MLC has been in force.

### *3.3 Health protection, medical care, Welfare, and Social Security Protection.*

All ships flying the Albanian flag are required to provide measures for the protection of seafarer's health, and they should have access to prompt and adequate medical care.

Article 145 of the Maritime Code specifies the rules on keeping medicines. No specific requirements in this regard exist for seafarers on board ships flying the Albanian flag.

DCM No. 862, "On the minimum requirements to protect the health and medical treatment of the seafarers on board ships," defines the list of medicaments that must be on board ships flying the Albanian flag.

There is no standard medical report form for use by the ships' masters and relevant onshore and onboard medical personnel.

There are no specific provisions to provide seafarers employed on the ships with a right to material assistance and support from the shipowner with respect to the financial consequences of sickness, injury, or death occurring while they are serving under a seafarers' employment agreement or arising from their employment under such agreement.

Regarding social security, Albania has not declared its acceptance of the amendments of 2014 yet. The same is valid for the treatment of the contractual claims.

There are no national guidelines for the management of occupational safety and health on board ships that fly the Albanian flag. The shore-based welfare facilities are not regulated and there are no clear rules on how to access such facilities by the seafarers.

### 3.4 Compliance and enforcement.

The main Laws that regulate at present the implementation of the MLC Convention in the Republic of Albania are:

- Law No. 9251 date 08.07.2004 "The maritime Code of the Republic of Albania",
- Law no 7961, dated 12.7.1995 "Labor Code of Republic of Albania" as amended.
- Law No. 10109 date 2.4.2009 "On the Maritime Administration of the RA".
- Law no 7703 dated 11.05.1993 "On the Social security in the Republic of Albania" as amended.

The authority to inspect the certification of Maritime Labour Conditions is Flag State Control whose activity is regulated by Regulation No. 410 date 27.10.2021 "On the organization and functioning of the Flag State Control in the Republic of Albania".

## 4. Analysing the Situation in the Maritime Industry

To better understand the situation of MLC implementation in Albania, a survey was conducted to reveal the real issues concerning seafarers. The questionnaires were prepared based on the main pillars of MLC including all required standards deriving from MLC.

The main topics included in the questionnaires were:

- Hours of work and rest (HWR),
- Accommodation, food and catering (AFC)
- Seafarer's employment agreement (SEA)
- Paid annual leave (PAL)
- Onboard medical care (OMC)
- Seafarers complain handling (SCH)
- Repatriation at the end of the contract (PPEC)
- Health and safety protection and accident prevention (HSPAP)
- Minimum age (MA)
- The use of licensed private recruitment services (ULC)

There are more than 1000 Albanian seafarers employed onboard Albanian and foreign flag vessels. They are mainly engaged on the deck department, engine, stewards, and as bridge officers. The questionnaires prepared were distributed among seafarers in all ports of Albania, but mostly in Durres, where more than 90% of the commercial activity and the biggest number of seafarers is concentrated. Out of 300 questionnaires handed out about 27,6% of the questionnaires were filled. This relatively high rate of returning of filled forms is due the cooperation with General Maritime Directorate and direct telephone communication with seafarers.

Table 1 below shows the results of the responders.

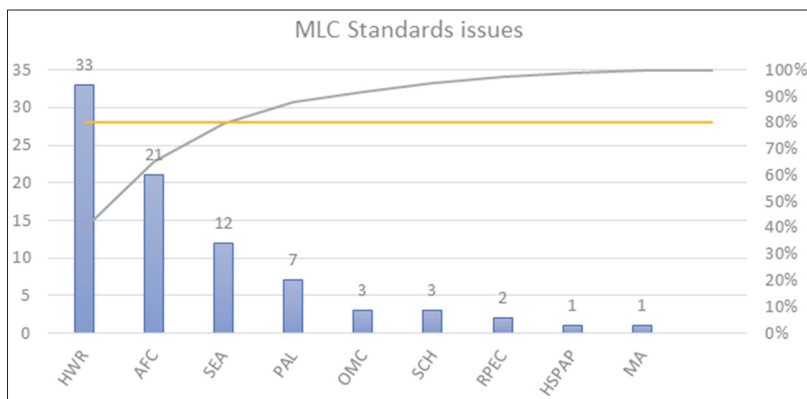
**Table 1.** Responses to the questions regarding MLC standards

MLC- Standards	Responses
hours of work or rest HWR	33
Accommodation, food and catering AFC	21
Seafarer's employment agreements SEA	12
Paid annual leave PAL	7
Onboard medical care OMC	3
Seafarers complain handling SCH	3

MLC- Standards	Responses
Repatriation at the end of the contract RPC	2
Health and safety protection and accident prevention HSPAP	1
Minimum age MA	1
The use of licensed private recruitment services ULC	

## 5. Discussion

Table 1 above gives a clear picture of the view that the seafarers have towards the implementation of the MLC Convention. It should be noted that not Albanian seafarers are employed onboard Albanian flag ships. Most of them is working onboard foreign flag vessels, but being of Albanian nationality, these seafarers are certified according to the STCW requirements, from the Albanian General Maritime Directorate, and it is the responsibility of the Albanian Maritime Administration (GMD) as well as the Maritime Administration of other countries where they call, to safeguard the standards set forth from the MLC convention. Based on the responses we have compiled a pareto chart to classify the most important issues identified by the seafarer's answers.



This chart classifies that the most concerning standards remain the hours of working and rest, accommodation Food and Catering as well as the seafarer's employment contract. All these three standards compose 80% of the issues concerning the implementation of the MLC Standards.

Hours of working and rest, is the main concern noted by them. This is due to the tendency of the shipowners to man the ships according to the safe manning certificate, but always using the minimum number of the crew required. If one of the crew during the voyage appears to have any health issue, the rest of the crew must replace him in his/her duties, therefore, having them to work sometimes beyond their normal working load.

Accommodation food and catering, remains another concern for the seafarers. This is more significant in commercial vessels compared to passenger vessels which are better fitted. Because the requirements of this code apply to ships constructed after the entry into force of this code, this criterion remains a continuous concern. All ships flying Albanian flag, and most of the ships where Albanian seafarers are employed, are built before the date of entry into force of the convention, therefore this is going to be one lasting concern.

Seafarers' employment contract, exists, but it does not fully reflect the requirements of the code. Not all the provisions are clearly embodied in the employment contract. He provisions for the paid annual leave and the repatriation are mentioned but do not guarantee the rights of the seafarers. A better compiled contract with all requirements and standards embodied in it is necessary.

## 6. Recommendations

This paper aimed to give a clear view of the implementation of the MLC in the Republic of Albania and identify the gaps that exists, as well as to provide recommendations on how to overcome these gaps.

Based on the findings of this paper, Albania has not rectified yet the Amendments of 2014 to the MLC, 2006 as

well as the Amendments of 2016 to the MLC, 2006. Therefore, we recommend that these amendments are necessary to be rectified by the Albanian Government. The adoption of the convention is not complemented by specific regulation on facilitating the implementation of the MLC convention. Such regulations will help responsible and relevant officials to better implement the standards set forth by the convention.

Albania Maritime Administration, and in particular General Maritime Directorate as the highest maritime authority responsible on implementing these standards, must encourage shipowners and seafarers' organizations to adopt a collective agreement that will be part of the individual employment agreement of seafarers.

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