

Pursuant to Article 9 of the Act on Amendments to the Act on Maritime Ship and Port Security ("Official Gazette", no. 59/2012), and regarding Article 22e of the Act on Maritime Ship and Port Security ("Official Gazette", no. 124/2009 and 59/2012), the Minister of Maritime Affairs, Transport and Infrastructure, with the prior approval of the ministry competent for internal affairs and the ministry competent for defence, has passed the

ORDINANCE

ON THE CONDITIONS TO BE MET BY LEGAL PERSONS PROVIDING SERVICES OF EMBARKATION OF ARMED SECURITY PERSONNEL ON BOARD OF CROATIAN FLAG SHIPS

Article 1

This Ordinance prescribes conditions that must be met by legal persons that provide services of embarkation of armed security personnel onboard of Croatian flag ships, and the documents and data that must be enclosed to the application for the permit to embark armed security personnel on board of Croatian flag ships.

Article 2

The following terms used in this Ordinance shall have the following meanings:

- 1) *Armed security personnel* shall mean persons who are not members of the ships crew, and who are embarked on board a ship for security of the ships crew, the ship, cargo and other property onboard the ship from piracy and armed robbery and who, in the course of providing their services onboard the ship, are allowed to use firearms,
- 2) *Unarmed security personnel* shall mean persons who are not members of the ships crew, and who are embarked on board a ship for security protection of the ships crew, the ship, cargo and other property onboard the ship from piracy and armed robbery and who, during their stay onboard the ship, have no firearms,
- 3) *Maritime security company* shall mean a legal person that provides services of embarkation of armed security personnel,
- 4) *Ministry* shall mean the ministry competent for maritime affairs,
- 5) *Minister* shall mean the minister competent for maritime affairs.

Article 3

(1) The embarkation of armed security personnel on board Croatian flag ships can be carried out by domestic or foreign legal persons that have been issued a Permit.

(2) The Permit referred to in Paragraph 1 of this Article shall be issued by the Ministry after the prior opinion of the Committee.

(3) The Committee referred to in Paragraph 2 of this Article shall be appointed by the Minister, and consists of two representatives of the Ministry, one of which chairs the Committee, one representative of the Ministry of the Interior, one representative of the Ministry of Defence, one representative of the Association of Shipowners and one representative of the Seafarers' Union.

(4) The Committee must be impartial, and the Committee members shall have no economic interest in connection with the provision of armed maritime security services.

(5) The Permit referred to in Paragraph 1 of this Article is not required if foreign legal person provides the Ministry with the proof that it is explicitly authorised by any EU member state, in accordance with its legislation for providing armed maritime security services on board ships flying the flag of this member state,

(6) Legal persons holding the Permit referred to in Paragraph 1 of this Article may also provide embarkation of unarmed security personnel.

CONDITIONS FOR ISSUING THE PERMIT

Article 4

The Ministry shall issue the Permit referred to in Article 3 of this Ordinance to a domestic or foreign legal person if it meets the following conditions:

1) if it has carried out activities of private security for at least 2 years before submitting the application for the Permit,

2) if it is registered to carry out activities of embarkation of armed security personnel,

3) if it holds a valid third party professional liability insurance policy in the amount of at least 500,000.00 HRK per damaging event,

4) if it has an implemented and maintained quality management system, in accordance with ISO or other equivalent internationally recognised standards, which covers activities related to the armed maritime security and that must be reviewed by an independent certification body,

5) if it meets the conditions referred to in Article 5 of this Ordinance.

Article 5

(1) Private maritime security company must , for carrying out activities of embarkation of armed security personnel, have signed employment contracts or other equivalent contracts with at least 10 persons for which it has previously established that they meet the following conditions:

- 1) that they are 18 years of age
- 2) that they hold personal identification and travel documents
- 3) that they have proof of the absence of a criminal record
- 4) that they hold proof of medical fitness that includes the general health status, and physical and psychological fitness,
- 5) proof of carried out testing on the use of drugs and alcohol,
- 6) experience in the army, police or carrying out security guard activities for a period of at least 2 years,
- 7) carried out test of military and/or police experience,
- 8) Certificates and documentary evidence on the completion of training programmes referred to in Article 8 of this Ordinance,
- 9) proof of competency in handling and using weapons that they will use.

(2) Private maritime security company must, as part of its quality management system, determine a procedure for selecting and employing persons to be embarked as armed security personnel on board ships, and for the continuous monitoring of the competence of these persons for a high-quality performance of their activities, and procedures for conducting their training and improvement of skills.

(3) That the conditions referred to in Paragraph 1. of this Article are met can be proven by the appropriate extract from the quality management system in accordance with ISO or other equivalent internationally recognised standards, from which it is evident in what way and by using which procedure the verification of such conditions is ensured.

(4) The condition referred to in Paragraph 1 of this Article that refers to employment contracts or other corresponding contracts with at least 10 persons shall be proven with copies of these contracts.

APPLICATION FOR PERMIT

Article 6

(1) The application for the Permit referred to in Article 3 of this Ordinance can be submitted to the Ministry by a domestic or foreign legal person that provides services of

embarkation of armed security personnel, or by a ships company on behalf of this legal person.

(2) In addition to the application referred to in Paragraph 1, and the proof that the legal person meets the conditions referred to in Article 4 and 5 of this Ordinance, the following proof also needs to be submitted:

- 1) excerpt from the domestic or foreign registry of legal persons,
- 2) proof of the ownership structure of the legal person,
- 3) overview of financial operations,
- 4) statement on the professional experience of the members of the management board,
- 5) employment contract or partnership contract concluded with at least one person who has seafaring experience of at least 2 years of sea service in the capacity of a ship's master,
- 6) copy of the procedures manual with the written procedures, operational procedures and forms related to carrying out activities of embarkation of armed security personnel, in accordance with Article 7 of this Ordinance,
- 7) proof that the legal person has organized duty service with continuous operating hours,
- 8) proof that the legal person ensured provision of legal advice related to the performance of duties,
- 9) statement on the knowledge and understanding of Croatian laws and regulations related to carrying and using weapons and statement that the legal person undertakes to familiarise the armed security personnel with such laws and regulations,
- 10) proof of the legal procurement, transport, loading and unloading of weapons,
- 11) statement on the knowledge of the conditions in areas of increased risk of pirate attacks and armed robberies and familiarity with the military activities in such areas.

(3) The domestic legal person that provides services of embarkation of armed security personnel must, enclose to the the application referred to in Paragraph 1, or submit to the Ministry at the latest until the moment of the issuance of the Permit, the authorisation for the procurement of category B weapons, as classified by the Weapons Act, issued to it by the competent authority of the Ministry of the Interior, and the foreign legal person shall submit written proof of the legal procurement of category B weapons, as classified by the Weapons Act, in accordance with the legislation of the state of its head office.

Article 7

(1) The procedures manual shall contain the following:

- 1) screening, employment and monitoring procedures of armed security personnel,
- 2) practice procedures and continuous improvement procedures of armed security personnel,
- 3) risk assessment procedure for pirate attacks and other unlawful acts,
- 4) organisation, transport, embarkation/disembarkation procedures and procedure for implementation of armed security protection of ships, including communication,
- 5) procedure for the organisation of the group for armed security protection of ships, appointment of the group leader, unambiguously defined hierarchy in the group, distribution of obligations and responsibilities,
- 6) procedures after embarking on board a ship, including risk assessment, measure of self-defence and ensuring the unhindered performance of duties of the ship crew and the armed security personnel;
- 7) procedure in case of pirate attack or armed robbery, conditions under which firearms may be used and the procedure in case of use of firearms,
- 8) procedure in case of captivation of pirates or other persons who show the intention of committing or who commit piracy or armed robbery,
- 9) procedure of securing crime scenes and safekeeping proof for investigators,
- 10) procedures in case of pirates hijacking the ship,
- 11) method of reporting any form of criminal offence, misdemeanour, inappropriate conduct or excessive use of force,
- 12) procedures in case of violation of rules prescribed by the manual,
- 13) necessary forms of reports for the following:
 - a) report in case pirate attacks or armed robbery,
 - b) report in case of captivation of pirates or persons who attempt to commit or commit armed robbery,
 - c) report in case of pirates hijacking the ship,
 - d) report on completed armed maritime security operation,

14) other procedures that will contribute to the performance of duties in a safe way and forms of reports that contribute to the quality of supervision of the completed service.

(2) All armed security personnel must be acquainted with the provisions of the procedures manual, regardless of the type and the duration of the employment contract they have signed.

(3) Every member of the armed maritime security personnel must respectively sign a written statement that they are acquainted with the provisions of the procedures manual.

TRAINING

Article 8

(1) Armed security personnel must complete a training programme in accordance with the International convention on standards of training, certification and watchkeeping for seafarers (1978), as amended, and acquire the Basic Training certificate (STCW A-VI/1) or the Safety Familiarization Training certificate (STCW A-VI/1), as well as training in providing first aid in accordance with applicable international standards.

(2) Legal persons for armed maritime security protection must ensure the implementation of the training of armed security personnel, which shall cover the following:

- 1) specialist training in handling and using firearms,
- 2) tactical protection of ships passing through high risk areas,
- 3) familiarisation with the provisions of the applicable best management practices manual (BMP manual) for the prevention of and procedures in case of pirate attacks,
- 4) familiarisation with specific features of different types of ships,
- 5) familiarisation with the management system on ships,
- 6) familiarisation with the provisions of the International Safety Management Code (ISM Code),
- 7) familiarisation with the provisions of the International Ship and Port Facility Security Code (ISPS Code),
- 8) other training programmes whose content contributes to the greater safety and quality of services provided.

ONBOARD PROCEDURE

Article 9

(1) The ship's master or an officer appointed by the ship's master shall be obliged to familiarise armed security personnel embarked onboard the ship with the decision making system, the ship features, the prescribed emergency procedures, and especially with the provisions of the Ship Security Plan.

(2) After embarking onboard a ship, the group leader shall sign a statement (form in Annex I) that he is aware that he may only use firearms with the consent of the ship's master and to the smallest possible extent that is necessary to avert an attack in accordance with the criminal legislation of the Republic of Croatia.

(3) The armed security personnel group leader shall be obliged to familiarise the ship's master and the crew with the division of responsibilities and duties in the group, all procedures determined by the procedures manual, the measures of self-defence that will be used and the recommendations for the crew on the procedures in place when passing through high risk areas.

(4) The group leader, with the prior approval of the ship's master, shall organise a system of watch-keeping duties for the armed maritime security personnel when passing through high risk areas and providing security protection.

EQUIPMENT

Article 10

(1) The equipment, instruments and devices used by persons for the armed or unarmed security protection of ships shall comprise the personal equipment and other instruments, equipment and devices.

(2) The personal equipment shall include the uniform, protective ballistic vest, helmet, firearms and ammunition as well as other equipment that enables the safe performance of duties.

(3) Other instruments, equipment and devices shall include binoculars, night vision devices, razor blade wire-fence, smoke bombs, emergency medical supplies, satellite telephone connection device and other equipment that enables the safe performance of duties.

Article 11

(1) The equipment, instruments and devices must be safeguarded and transported adequately, especially firearms and ammunition.

(2) Firearms and ammunition shall be safeguarded in the manner prescribed by the laws and regulations of the Republic of Croatia, the laws and regulations of the coastal states and the laws and regulations of the port state.

(3) The method of transporting the firearms and ammunition must be in accordance with relevant international regulations for the safe transport of firearms and ammunitions.

Article 12

The equipment and instruments, especially firearms and ammunition, procured for the purpose of armed maritime security protection of ships shall be used exclusively for that purpose, and cannot be used for any other purpose in the Republic of Croatia.

RECORDS

Article 13

(1) The Ministry shall keep official records on the legal persons for armed maritime security to which it has issued a Permit.

(2) The list of legal persons for armed maritime security to which the Ministry has issued a Permit shall be published on the official web site of the Ministry.

Article 14

(1) Legal persons for armed maritime security shall keep personal records on the persons they employ under an employment contract or another contractual relationship. Such records shall contain necessary documents and permits, copies of certificates of competence referred to in Paragraph 1 of Article 8, certificates on the completed training referred to in Paragraph 2 of Article 8, certificates on completed medical examinations, statement on the acquaintance with the provisions of the procedures manual and all other documents relevant for a quality performance of duties.

(2) Legal persons for armed maritime security shall be obliged to make available personal records referred to in Paragraph 1 for the purposes of the supervision of the implementation of this Ordinance.

SUPERVISION

Article 15

(1) The Ministry shall carry out the supervision of the implementation of this Ordinance.

(2) The Ministry is competent for receiving complaints on the work of legal persons for armed maritime security.

(3) The Ministry can request the expert assistance of the Committee referred to in Article 3 in the measures taken after receiving a complaint or in the participation of Committee members in carrying out the supervision.

Article 16

When in the course of a supervision an irregularity or deficiency in the implementation of this Ordinance is established, the person carrying out the supervision can:

- 1) order the elimination of the deficiency or irregularity within a specified term,
- 2) temporarily prohibit the embarkation of armed maritime security personnel,
- 3) propose the suspension of the Permit.

Article 17

The Ministry shall suspend the Permit of a legal person for performing armed maritime security services if it establishes that this legal person no longer meets the conditions for issuing the Permit or that it carries out activities contrary to the provisions of this Ordinance, the Act on Maritime Ship and Port Security, and the guidelines and recommendations of the International Maritime Organisation.

TRANSITIONAL AND FINAL PROVISIONS

Article 18

A legal person for armed maritime security that does not have an established quality management system can be issued a Permit under the condition that it subsequently introduces a quality management system within the period of one year.

Article 19

This Ordinance enters into force on the eighth day from the day of its publication in the "Official Gazette".

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Zagreb, 29 October 2012

Minister
dr. sc. Siniša Hajdaš Dončić, signed

Annex I. / Prilog I.

IZJAVA/ STATEMENT

(Članak 9. stavak 2. Pravilnika/Article 9 Paragraph 2 of the Regulation)

Svojom potpisom na ovoj Izjavi potvrđujem da sam upoznat da se vatreno oružje na brodovima hrvatske državne pripadnosti smije upotrijebiti isključivo uz suglasnost zapovjednika broda i u najmanjoj mjeri koja je potrebna da se odbije napad u skladu sa kaznenim zakonodavstvom Republike Hrvatske./

With my signature on this Statement I confirm that I am aware that onboard of Croatian flagged ships firearms may be used exclusively with consent of the Ship's master and to the minimum extent necessary to repel the attack in accordance with the Croatian criminal law.

Potpis vođe grupe/
Signature of the Group leader

Potpis zapovjednika broda/
Signature of the Ship's master
