

Ukrainian Association of the Marine Law

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The necessary forms of cooperation for the protection the labor and social rights of seafarers in the OSCE region

Maritime Labour Convention, adopted by the International Labour Organization in 2006 (hereinafter – Convention-2006) appeared as a new stage for the legal enforcement of labor interests of seafarers in the global system of navigation. This act establishes a new social standards and stricter duties of the flag states, port states, and states of the seamen's citizenship, of the ship-owners and the seafarers' unions.

Ratification of the Convention-2006 by a number of states and preparations for its ratification by a majority of OSCE participating states, in particular by the countries of the European Union and the Russian Federation, the Convention's entry into force, expected in 2012: all those factors pose in front of the OSCE region in general as well as for national governments, ship-owners, trade unions, expertise and academic institutions, civil society as such, a number of pressing problems caused by the unresolved problems with the political, legal and organizational grounds.

Delaying the process of ratification of the Convention-2006 by some of the OSCE participating states may cause quite negative consequences for their national fleets, ports` infrastructure, weak the position of those states` citizens in the international market of seafarers significantly, it will limit the possibility of intervention by the public authorities and public institutions to protect labor and social rights of seafarers in the global maritime sector. Improper performance by the separate state authorities of Ukraine to the current legislation in the ways of preparing for ratification the Convention-2006 is a striking example of such negative trends. At the same time, this delay, as in some caused by the lobbying efforts of opponents of signing the Convention-2006, unfortunately, have some objective reasons.

Thus, the Convention-2006 involves the port state and flag state control mechanisms in the fields that go a few beyond the competence of the organs, that are traditionally responsible for a monitoring in the area of maritime transport. This causes some uncertainty in the current actions for the Convention-2006`s demands` implementation by the concerned bodies of public administration. National legislations in the field of maritime transport, labor, social protection, health requirements, insurance, in some states of the OSCE region are not only imperfect and entirely coherent, but they need substantial revision for bringing them into conformity with the standards of the Convention-2006. This revision requires serious efforts, as it has been shown, in particular, in the comparative analysis of ILO Conventions and national legislations, made with the ILO funding (look the analysis of the coherent Ukrainian legislation at

http://www.mlsp.gov.ua/control/uk/publish/article?art_id=107604&cat_id=102036). Duty in such efforts was shown during the scientific conferences and workshops, including expert ones.

At the same time the lack of the resource potential in a number of states in the OSCE region does not allow them during a crisis situation in the public sector to implement fully the requirements of the Convention-2006. In particular, the following necessary measures require a very serious funding:

- academic translation the Convention-2006 into the national languages of the OSCE region, as well as the relevant basic courses offered by the ILO for training the control personnel, creation the national courses and disciplines on their basis, which would take into account recognized by the ILO specific national mechanisms of ensuring the rights of seafarers;

- providing the official certification in the ILO Turin Center for the national public servants, which allows them to conduct training for the control of the Convention-2006;

- exchanging by the experiences with the management, expertise and academic institutions, inspection services in the states that have ratified or are preparing to ratify the Convention-2006, joint activities, the staff delegation etc;

- scientific, practical and educational activities in the dissemination of information about the benefits of the Convention-2006 in the face of opposite activities of some public structures.

Coordination of the national practices and providing necessary technical assistance is now not only the part of the of the International Labour Organization's mandate, it requires also the adequate efforts from the regional organizations, in the frames of the ensuring sustainable development and protection the human rights, in particular, workers' rights. Thus, the OSCE and its subdivisions must not stay away from the respective activities. In particular it would be the following OSCE measures:

- development the OSCE Coordinating program for the implementing the requirements of the Convention-2006 by the states in the region on the basis of reciprocity with the harmonization of regulations contained in the relevant national laws and action plans;

- establishment the unified standards for defending the seafarers' rights by the states in the OSCE region on the basis of reciprocity, taking into account the relevant provisions of the Convention-2006;

- inclusion the questions of the prohibition the seafarers' rights to the schedule of the OSCE expert activities and to the agenda of the OSCE conferences in the states that are the most vulnerable for the ILO Convention-2006 entry into force (in particular, in Ukraine);

- providing appropriate technical aid to the states that are the most vulnerable after the ILO Convention-2006 entry into force, involving the cooperation as with a concerned public authorities so with seafarers' trade unions, employers' organizations, expert and academic structures.