

**Shipyard industry and other maritime goals – governmental kick off**  
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Last year my colleague Pawel introduced us to the latest development in Polish maritime law which was: the arrest of ships and the shipbuilding, in particular, Pawel spoke about the development programme named „Batory” which is aimed at building the Polish passenger ferry. The basic idea of this program is to develop the exemplary framework for reorganization of the Polish shipyards. This year I am happy to provide you with some new information regarding revival of the shipyard industry in Poland and some other legal changes proposed by the Polish government.

**Chapter One**  
**Shipyard Industry**

First of all, I would like to introduce you to some significant provisions of the Act of 6<sup>th</sup> July 2016 on activating the shipbuilding industry. This act has entered into force on 1<sup>st</sup> January 2017. The main objective of this act is to restore the Polish shipyards in which the contract value has been steadily decreasing each year. For instance, in 2007 Polish shipyards built thirty vessels but in 2014 this number decreased to the level of only eight vessels.

The proposed solution for this problem is to provide shipyards with investments and fiscal advantages. The shipyards are now entitled to choose the flat-rate income tax in the amount of 1%. The tax will be based on the revenue from the sales of newbuilding or repaired vessel which means that it only concerns the basic activity which is: shipbuilding and shiprepair contracts. The new act provides also a wide application of reduced rate 0% of VAT for shipyards services. In addition, the act has introduced a mechanism for including the shipyards into the areas of a special economic zones.

Now, as you can imagine it is way too early to assess these new provisions, in particular to answer the question: will new provisions contribute to the revival of the Polish shipyard industry. At this time, I can say that one Polish shipyard – Gryfia is currently building a new ferry for Polferries. Both companies are Polish state entities.

I should also like to mention the programme named “Batory” which is a part of Polish Deputy Prime Minister Morawiecki’s plan. In this programme, the Polish shipyards are encouraged to join the consortium in order to bear the contracts for building larger vessel. According to the programme, Polish shipowners, like Polsteam and Polferries should built their vessel in Polish shipyards. Such contracts would be partly financed by the Polish Development Fund.

**Chapter Two**  
**Inland Navigation**

Another proposal that is often-repeated by the new government is the revival of the inland navigation. At the beginning I shall refer to some numbers in order to show you why

inland navigation is such a problem in Poland. In the EU the share of inland waterway transport in the carriage is, on average, 5-6%. At the same time, this share in Poland is 0,4%. This situation is primarily due to the bad conditions of inland waterways – only 10% of the inland waterways complies with the technical and performance standards.

Due to this problem, Poland has recently made some attempts concerning maritime law in order to restore inland navigation. For instance, on 23<sup>rd</sup> January 2017 Poland has ratified the European Agreement on Main Inland Waterways of International Importance, known as AGN Convention. As we know, this act constitutes the coordinated plan for the development and construction of a network of European inland waterways. According to the AGN Convention, three inland waterways of international importance pass through Polish territory: (1) E 30 which runs through Oder waterway, linking the Baltic Sea in Świnoujście with the Danube River in Bratislava, (2) E 40 which connects Black Sea in Odessa and Baltic Sea in Gdańsk, and (3) E 70 which connects the Oder River with the Vistula Lagoon forming the part of the European transport east-west route connecting Klaipeda with Rotterdam. Unfortunately, only the small parts of these waterways met the conditions of the Trans-European Transport Network – only the short sections on the lower Oder and the lower Vistula.

The Convention obliges Poland to adjust Polish main rivers to be in conformity with at least class IV of the classification of European inland waterways. When this is done, Polish waterways would be considered as E waterways, being the network of inland waterways of international importance.

### **Chapter Three Pilotage Services**

Another revision of the Polish maritime law prepared by the government concerns the pilotage services. At the moment these services are supplied by the pilots associated in pilot stations. This existing stations are in fact the property of the pilots, which means that the pilot stations are equipped with the infrastructure by the pilots. The stations are administered by the companies in which all of the shares are owned by the pilots.

Such a system is based on the provisions of the Polish Maritime Code. According to Article 223 Cl. 1 of the Maritime Code, providing the pilotage services is based on the contract entered into by the pilot and the shipowner. In practice this looks like the following: (1) the shipowner enters into an agreement with the company formed by the pilots, (2) such company designates one pilot to provide the pilotage services; (3) the agreed payment is paid to the company which reimburses the pilot for the appropriate part of the payment. Such practice is accepted in every Polish port of key importance for the state economy.

The planned amendments of the Maritime Code will modify entirely this system. First of all, the pilot stations are to become the property of the entities managing the ports. This means that the pilot stations will become the state entities. It also means that the pilots are to become in fact the employees of the pilot stations. The agreement on the pilotage services would be entered into by the shipowner and the entity managing the port and

the payment for these services will be paid directly to this entity. As a result, the pilots will be receiving only the fixed remuneration.

What is important, at the moment the maximum fare for the pilotage services is specified by the Minister of the Maritime Affaire. The new regulation will give the entities managing the ports some freedom in the process of establishing the fare for the pilotage services providing that such fare will follow the principles of regulation (EU) 2017/352 of the European Parliament and of the Council of 15 February 2017 establishing a framework for the provision of port services and common rules on the financial transparency of ports.

### **Conclusion**

I have presented to you some key information concerning the latest development in Polish maritime law. The most interesting topic is of course the plan for reactivating the Polish shipbuilding industry. The plan is based on the act which is currently in force but it is still too early to assess these new provisions. Perhaps I could provide you with such assessment on our next meeting in 2018.