

**Organization of trade-
ports activity management
in Europe at the end of
the 19th and beginning
of the 20th century**

ORGANIZATION OF TRADE PORTS ACTIVITY MANAGEMENT IN EUROPE AT THE END OF THE 19TH AND BEGINNING OF THE 20TH CENTURY

ORGANIZACIÓN DE LA GESTIÓN DE ACTIVIDAD DE LOS PUERTOS COMERCIALES EN EUROPA A FINALES DEL XIX Y COMIENZO DEL SIGLO XX

ABSTRACT

This article presents some arguments for the presence of two different models of organization of sea trade ports management in European countries at the turn of the nineteenth and twentieth centuries on the basis of national regulatory acts analysis. . By studying the main models of the management of trade ports in Europe in the late nineteenth-early twentieth centuries, and in the framework of main legal systems, we can distinguish, on the one hand, the continental model of the commercial ports management, which is characterized by inclusion of sea trading ports in the state economy with the creation of a developed management apparatus and empowerment of it; and, on the other hand, the Anglo-Saxon model, common in Great Britain and its subordinate territories, in which commercial seaports were in private hands, and the state is limited only to the control over the execution of basic commercial and maritime rituals. The use of other models of commercial ports management was associated with the specifics of individual regions structure and the presence of institution of “free cities”.

KEYWORDS: public administration, sea trading ports, regulation, models, governing bodies.

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RESUMEN

Este artículo presenta algunos argumentos a favor de la presencia de dos modelos diferentes de organización de la gestión de los puertos de comercio marítimo en los países europeos al final de los siglos XIX y XX sobre la base del análisis de los actos reglamentarios nacionales. . Al estudiar los principales modelos de gestión de los puertos comerciales en Europa a finales del siglo XIX y principios del XX, y en el marco de los principales sistemas jurídicos, podemos distinguir, por un lado, el modelo continental de la gestión de puertos comerciales, que se caracteriza por la inclusión de los puertos de comercio marítimo en la economía del estado con la creación de un aparato de gestión desarrollado y su empoderamiento; y, por otro lado, el modelo anglosajón, común en Gran Bretaña y sus territorios subordinados, en el que los puertos marítimos comerciales estaban en manos privadas, y el estado se limita únicamente al control sobre la ejecución de rituales comerciales y marítimos básicos. El uso de otros modelos de gestión de puertos comerciales se asoció con los aspectos específicos de la estructura de cada región y la presencia de la institución de “ciudades libres”.

PALABRAS CLAVE: administración pública, puertos de comercio marítimo, regulación, modelos, órganos de gobierno.

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INTRODUCTION

Today, it is customary to understand the representation of government bodies' activities and their officials, carried out within their competence to solve the problems and lead to certain consequences under the form of public administration.

General features of the forms of government include the fact that they are external expression of the activities of government bodies and their officials, depend on the content of the activities of government bodies and their officials,; influence the content of the activities of government bodies and their officials,; require legal regulation in most cases due to the implementation of tasks and functions of the subjects of government within their competencies; predetermines the most effective option activities; and entail certain consequences.

By purpose, forms are divided into external (forms of exercising powers of the executive authorities (government bodies)) and internal (forms of intra-organizational (intra-office) work on the organization of the subject of management itself, to maintain it in working condition) (Makareyko, 2009).

Based on the above statements, one of the forms of implementing by government bodies is the organization of management subject itself and all of its components at various levels, which is typical for each state. Based on this, we intend to study the legal organization of commercial ports activities management in the late nineteenth-early twentieth centuries in major European countries (Ignacio et al., 2006).

RESEARCH METHODOLOGY

This article was based on a dialectical approach to study the legal phenomena and processes, using general scientific (system, logical, analysis and synthesis) and private

scientific methods. Among the latter processes are formal legal, linguistic legal, and comparative legal processes that were collectively used to study the texts of laws of Italy, Great Britain, Russia, Norway, Sweden, France, Germany, and other countries, with the identification of the main approaches to the legal regulation of trade management ports. The choice of this group is due to the obvious difference in the specific historical conditions of adoption as the normative acts themselves, aimed at creating a management system for commercial ports, as well as internal and external factors that influenced these processes. This allows us to expect a variety of approaches adopted by states to solve this problem.

DISCUSSION AND RESULTS

With regard to historical perspective, it is a long time that the law of the sea is born and developed in the Mediterranean region. Re-creation of a single Italian state in the second half of the nineteenth century became the impetus for the development and active use of the Code of Practice on the merchant fleet of the Italian Kingdom on October 24, 1877, and amended by royal decree of 1881, and the law of April 11, 1886.

Section 1 "On the management of the merchant fleet" was referred to the administrative part of the Code and established that management of the merchant fleet belonged to the sea minister and consisted of everything that was imposed on him by this code and what was entrusted to him by law (Article 1).

Administratively, the seaboard of the kingdom was divided into maritime divisions (compartimenti), which, in turn, were divided into districts (circondari) (Art. 2).

In practice, the administrative and technical management of the merchant fleet was assigned to a group of civilian officials, called "port authorities" (Capitanere di porto) (p. 1), consisting of port captains (capitani di porto), port officials (ufficiali di porto), attributed to the port (applicati di porto).

However, the fourth part of port officials' posts of the Code was reserved for the officers of the Royal Navy.

The states, subordination and annual content of the above-mentioned personnel were also determined by law (Art. 3).

The considerable length of the maritime borders of Italy, of course, is reflected in the management structure of merchant shipping and ports. Thus, it was envisaged that the port captain should be located in every major city of the district.

In each main city of the district, that is the main city of that district, a port official was supposed to be located.

From a maritime point of view, the rest of the more or less significant marinas (*punti di approdo*) were supposed to be a port official subordinated to the district official (Art. 4).

In the same offshore stations, in which there were no maritime bosses, management of the merchant fleet could be entrusted to other officials with similar duties (*di attribuzioni affini*), or even to an ordinary private person, who received the title of port delegate and annual remuneration determined by the articles of association (Art. 5).

Importance of the created management system for the state was emphasized by the fact that, according to the Code, port authorities and port officials were appointed by the king, as advised by the Minister of the Sea (Article 6).

Officials of the merchant fleet were divided into a separate cohort - "port officials", and servants, port guards, and sailors were appointed to assist them (Article 7).

At the same time, quite traditionally, the Italian Code imposed the administration of a merchant fleet abroad to consuls and consular agents (Article 9) (Kirschbaum, 1903).

It is worth noting the clearly defined rights and obligations of port management prescribed in Chapter 2 of the Code. Thus, the execution of the merchant fleet management, management of ports, bays, raids, shores, wharves, moles and bridges located in their subordinate departments, as well as canals and fairways that form part of these departments was the responsibility of the port captains.

As for port officials, in their districts, they had to perform those administrative duties which were not assigned by law to the captains of the port (Article 10).

In addition, port captains performed the duties of notaries for the commission of acts provided to them by this regulation. The acts revealed by them were recognized as acts of a public nature and were of such significance in civil and criminal cases.

This ruling was also applied to port officials when they were put at the head of the district and performed duties of ports captain (Article 11).

The port delegates were supposed to fulfill, in their sections, the duties assigned to them by special charters (Art. 12).

Because civil servants are responsible for keeping order in their subordinate territory, the Code entrusted to port captains and officials to execute certain judicial and police duties; and in the performance of these duties, they received the right to demand the assistance of troops (Article 13).

Captains of the port, in the district in which the main city of department is located, and the port officials, in the district under their jurisdiction, have the right to rule on such claims, the price of which did not exceed four hundred (400) liras.

Under these lawsuits, the port captains and port officials received the right to make decisions without legal rituals, after hearing parties, and even in the absence of the one that, being lawfully called, would not appear in court (Article 14).

They are obliged to draw up a report on each case, at the end of which a decision is made that serves as the executive document on the case. At the same time, the aforementioned decision was not subject to protest or appeal (Article 15).

In lawsuits, which cost more than 400 liras, the port captains and port officials pledged to try to persuade parties to the amicable agreement, and if they did not reach it, they made a protocol about this, which is submitted to the appropriate judicial authority, with necessary investigation and it is produced to certify the

circumstances of the case, as well as his personal opinion (Art. 16) (Kirschbaum, 1903).

In addition, based on the meaning of Art. 204 of the law, captains of the ports were entrusted with the general supervision of activities of the pilotage societies (Kirschbaum, 1903).

Norms of the Italian code were widely borrowed and applied in legislative acts of other countries including Russia (Sweden, Norway, Germany) (Goldstein, 1903; Soveshchaniya et al, 1902; Sadovsky, 1902). It was caused by the fact that in merchant shipping during the period under study, there was a system of generally accepted norms and customs based both on the reception of Roman law of the sea, and on certain norms of maritime powers, in which it was most reflected on, for example, in the Sea Ordinance (France) (Zahvataeva, 2008).

It should be pointed out that in Russia, the system of trade ports management was in an archaic state before the advent of branches and the Ministry of Trade and Industry (Zmerzlyj, 2014). It was only on March 7, 1888, that the "Provisional Regulation on Management of the Port of Odessa and Police in Onom Police" was adopted, and became the basis for the development of a subsequent general provision for all other ports.

Heading the port and local port police were assigned to the port authority, and port board. All duties on port police that previously lay on the Odessa police and other agencies (maritime, customs, quarantine and lines of communication), except for those relating to items directly related to the range of their activities were removed within this provision from their conduct.

Odessa Port Authority included the captain of the port, who was subordinate to the governor of Odessa; captain's assistants over the port (the elders performed duties of the port technicians - mechanics and ship engineer); management clerk and translator; and port guards. All of them were listed by the Ministry of the Interior.

Odessa port board chaired by the mayor, consisted of chief engineer of Novorossiysk commercial ports, captain over the port, a representative of the Ministry of Finance as

appointed by manager of the main warehouse customs, head of the Odessa Quarantine District, prosecutor of the Odessa district court, a representative of local inspection of the South-Western Railways, the mayor; the chairman of exchange committee; and chairman of the Committee for Trade and Manufacture. Representatives of other institutions could be invited to attend meetings with an advisory vote on issues related to them and, in general, all persons whose presence was deemed necessary.

Captain of the port was appointed on the proposal of the mayor, and Minister of the Interior of fleet officers. As the head of the port authority, captain of port: a) oversaw the execution of decrees and orders on commercial shipping and sea fishing; b) took the necessary measures both for their execution and for prevention, suppression and prosecution of their violations; c) imposed administrative penalties for violations that were submitted to him (Articles 28 and 29); d) dealt with civil disputes (Art. 30) over merchant shipping and maritime industries; e) watched the device and order in the harbors, roads, embankments, malls and generally in the space occupied by the port and port facilities; e) supervised maintenance of the raids, harbors and port facilities with all devices attached to them, and their proper use; g) in charge of the fairway setting, maintenance of port lights and lighthouses, observed load and unloading of ballast; h) took measures to rescue people, ships and cargo during wrecks; i) took measures to stop fires that could occur in the port; i) supervised maintenance of the lists of persons engaged in navigation and sea fishing, as well as lists of ships assigned to the port, issuing flag raising patents, checking passports, ship crews and passengers; j) managed inspections, measurements, surveys of merchant ships, their mechanisms and boilers; k) assisted quarantine, customs and other institutions in the performance of their duties. Other tasks and procedures of captain's activity over the port were set forth in the instructions drawn up in the port presence and approved by the Ministry of the Interior (Provisional Regulations on the Management of the Port of Odessa and the Port Police on March 7, 1888).

Having a position on the management of the Odessa port was a test in the practice of the new approach to port management. On its ba-

sis, the "Provision on the executive administration of merchant shipping and port police in the coastal trading ports" (Regulations on the administrative management of merchant shipping and port police in the coastal trading ports of May 7, 1891). was adopted on May 7, 1891, and on June 2, 1901, and the "Provision on local management of the coastal trading ports" (Regulations on local management of coastal trading ports of June 2, 1901) was also adopted, which focuses on European and personal experience in the management of trade ports, with a clear statement of the rights and obligations of port authority members.

A completely different system was developed for the management of trading ports in the UK. In this country, practically all ports were in private hands in the period under study, and therefore, government regulated only relations directly related to this issue - the collection of fees, duties, and customs activities (Veselago, 1903; Delivorn, 1872).

It should be noted that there were other models of commercial ports management, depending on the government of a particular territory. Therefore, on the basis of the constitution on October 13, 1879, representatives of the government in Hamburg were senate and the дума. Separate branches of government were under the authority of deputations consisting of 2-3 senators and a certain number of members of the Duma.

At the head of port management of Hamburg were two deputations: 1) deputation of trade and navigation; 2) construction deputation. Both of them were independent and parallel institutions, and in their composition were also representatives of the merchants.

Deputations of commerce and shipping were subordinated to the marine department and embankment management.

The marine department was divided into two parts: at the head of the first was a marine inspector, head of port lights and overseeing the order and installation of ships. The chief of the port and heads of the harbors were subordinates of this inspector. At the head of the second part was inspector of the stations, head of the pilots and traffic signs outside the port (Proceedings of the department of commercial ports, 1903).

Embankment management was in charge of the exploitation of port embankments. The department included a director, a vice-director, two district inspectors and their assistant, heads of port warehouses, and head of the technical part of the equipped port.

The construction deputation was in charge of construction and repair of port facilities, as well as dredging.

The basis of the port authority regulation and activities of the Hamburg port in the period under review were port laws and regulations of June 2, 1897, with instructions from Deputation of Trade and Shipping of June 30, 1897.


These regulations, in particular, the observation of traffic in harbors, were entrusted to the Trade and Navigation Deputations and Police Establishments. Based on this, Deputation of Trade and Shipping appointed port officials (the chief commander of the port, chiefs of the harbors, assistant chiefs of the harbors, port pilots and port overseers), and Police Department - officers of the port police (captain of the port police, senior commander, commanders and warders) (Art. 3).

At the same time, the port itself was subdivided into sections as well as borders that the number of which, were determined by Deputation of Trade and Shipping.

To monitor operations in the harbors of Hamburg, the main offices of harbors and offices of the harbors of individual sections operated (Article 4) (Proceedings of the department of commercial ports, 1903).

CONCLUSION

In the study of the main models of trade ports management in Europe in the late nineteenth-early twentieth centuries, and in the framework of the main legal systems, we can distinguish, on the one hand, the continental model of commercial ports management, which is characterized by inclusion of sea trading ports in the state economy and the creation of a developed management apparatus and empowerment of it; and, on the other hand, the Anglo-Saxon model, common in Great Britain and its subordinate territories, in which commercial seaports were in private hands, and the state was limited only to control the execution of basic commercial and

maritime rituals. The use of other models of commercial ports management was associated with the characteristics of individual regions structure and presence of the institution of “freecities”. 



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