

**Information** **Paper**

**Research Project**

**„Polar ICE: Implementation, Compliance and Enforcement of the Polar Code in Arctic waters”**

**General information**

This three-year (2019-2021) research project is a collaborative effort of NORCE Norwegian Research Centre (project lead, Tromsø, Norway), UiT The Arctic University of Norway (Norwegian Centre for the Law of the Sea and the Department of Social Sciences, Tromsø, Norway), High North Centre/Centre for High North Logistics at Nord University (Bodø, Norway), St. Petersburg State University (Russian Federation), Kola Science Center of the Russian Academy of Sciences (Apatity, Russian Federation), and Michael Kingston Associates Ltd. (London, UK) with several other associated partners from both Norway and abroad. The project is currently funded by the Norwegian Ministry of Climate and Environment through the Fram Centre’s[[1]](#footnote-1) Research Programme on the Arctic Ocean. The team includes political scientists, legal scholars, political geographers, economists and practitioners.

**Project objectives**

The Polar ICE project aims to develop a better understanding of differences in interpretation of the Polar Code and knowledge gaps that are influencing on effective and consistent implementation of the Polar Code. Findings obtained in the first project’s phase aim to close the knowledge gap about different interpretations focusing on the roles of respective actors, relationships between goal-based and prescriptive requirements, especially in relation to the “human element” of the PC implementation. We seek to complement the ongoing processes at the Arctic Shipping Best Practice Information Forum (the Forum), Arctic Council/PAME and IMO through close collaboration with these institutions. The project is organized around three work packages with respective corresponding sub-objectives that guide this study:

1. to identify and map out how different flag states interpret specific PC provisions related to goal-based/functional requirements (especially in terms of ice conditions/polar class, manning and training and life-saving appliances) and how these interpretations are received by other involved stakeholders (classification societies, ship operators, insurers, Port State Control, coastal states) through their own guidelines and approaches; to identify and map out the key knowledge gaps in this regard;
2. to analyze the legal consequences and/or challenges of different PC interpretations and possible other issues revealed under the WP1 and measures to address them, also through a comparative study with other IMO instruments, such as the International Safety Management (ISM) Code and the International Ship & Port Facility Security (ISPS) Code, which also rely heavily on the owner/operator to develop processes that adequately address a specific ship and operation;
3. to compile a catalog of different interpretations (that would directly complement Norway’s PAME proposal), knowledge gaps in stakeholder’s understanding of specified PC provisions as well as a list of possible international avenues and measures to address these issues (that could further complement these efforts by the Forum’s Web Portal).

**Project implementation**

The project’s first stage is focused on identifying and mapping stakeholders’ interpretations of the PC provisions in selected areas, especially those pertaining to the “human element”. Special attention is given to interpretations and practice of Recognized Organizations, primarily classification societies. To this end, we will utilize primarily the Forum’s Web Portal, which contains submissions from major stakeholders and maritime authorities of the Arctic states. The submissions have not yet been analyzed, and no information on knowledge gaps, ambiguities or divergent interpretations has been compiled. This will be supplemented by semi-structured interviews. The desk study at this stage will also include industrial guidelines, reports and other relevant material on PC implementation.

In the second stage, a legal analysis of the material from the previous one will be carried. It will examine the form of the Polar Code as the first goal-based standard adopted by the IMO as a new type of the legal framework consisting of three layers of “goals”, prescriptive requirements” and “regulations”. The potential legal challenges that may stem from differently interpreted provisions of the Code, for instance by the flag state (issuer of the Polar Ship Certificate) and the Port State Control, will be analyzed. Questions addressed will include: What kind of liabilities and consequences may different interpretations entail for the ship operator? Who does decide what the “correct” interpretation is? How can possible disputes be resolved? What are the given states' practices in interpreting/handling certain situations or provisions? The comparison with other IMO codes will look at these aspects and parts that are similar to the Polar Code (other than the goal-based provisions) and their implementation practices. The perspectives of maritime authorities and industry on this aspect will be also touched upon in the interviews and examined. Furthermore, a comparative study of the implementation of other IMO codes such as the ISM Code or ISPS Code will supplement the analysis.

In the final stage, the project team will compile a catalog of different interpretations with additional, knowledge gaps in stakeholder’s understanding of specified PC provisions and information gaps in the Forum’s Web Portal, as well as a list of possible international avenues and measures to address these issues, close the gaps and facilitate a harmonized implementation of the Polar Code. It will explore possibilities to propose common and unified understandings and interpretations that may be used in consideration for submission to IMO.

The project leaves open the possibility to expand the scope to other PC provisions and challenges. There is an inherent dynamic where we assume, we will be more conscious of the different actors and issues that may emerge. We will aim at expanding the study to non-Arctic flag-states, which we already identified as one of the challenges for PC implementation.

In spring 2020 it is planned to convene an expert workshop in Tromsø, Norway attended by key practitioners and stakeholders from classification societies, maritime authorities, other relevant actors and the team members that will aim at resolving any outstanding issues in the project proceedings and provide an opportunity to receive a feedback on the preliminary results and research needs in the next steps.

This project may be of direct interest to the project on harmonized interpretations of the Polar Code (led by Norway) and the Finnish-Russian project on the Polar Code implementation and may complement these two projects with scientific research and analysis, with additional knowledge on additional measures to facilitate the PC implementation.

1. FRAM - High North Research Centre for Climate and the Environment (The Fram Centre), based in Tromsø, Norway, constitutes a knowledge milieu that promotes trans-disciplinary research spanning the natural and social sciences and technology. The centre consists of 21 institutions engaged in cross-disciplinary research.

 [↑](#footnote-ref-1)