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HAMBURG HARBOUR PILOTS' ASSOCIATION







## *The Harbour Pilots' Association*

The Hamburg Harbour Pilots' Association was founded in 1981 as a public corporation. The change from rigid public sector structures to a public corporation has allowed the current 70 harbour pilots to provide our customers with flexible, fast and demand-orientated services at all times. The independence of the harbour pilots ensures the safety and smooth flow of traffic under economic conditions and enables the service to be provided 365 days a year in all weather conditions.



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## *Ready for operation at all times*

In order to run shipping traffic efficiently, the permanent availability of the harbour pilots is guaranteed. A working hours' model created in line with the interests of the port ensures that the high psychological and physical stresses associated with staying prepared, shift operation and demand-orientated operations are taken into account.

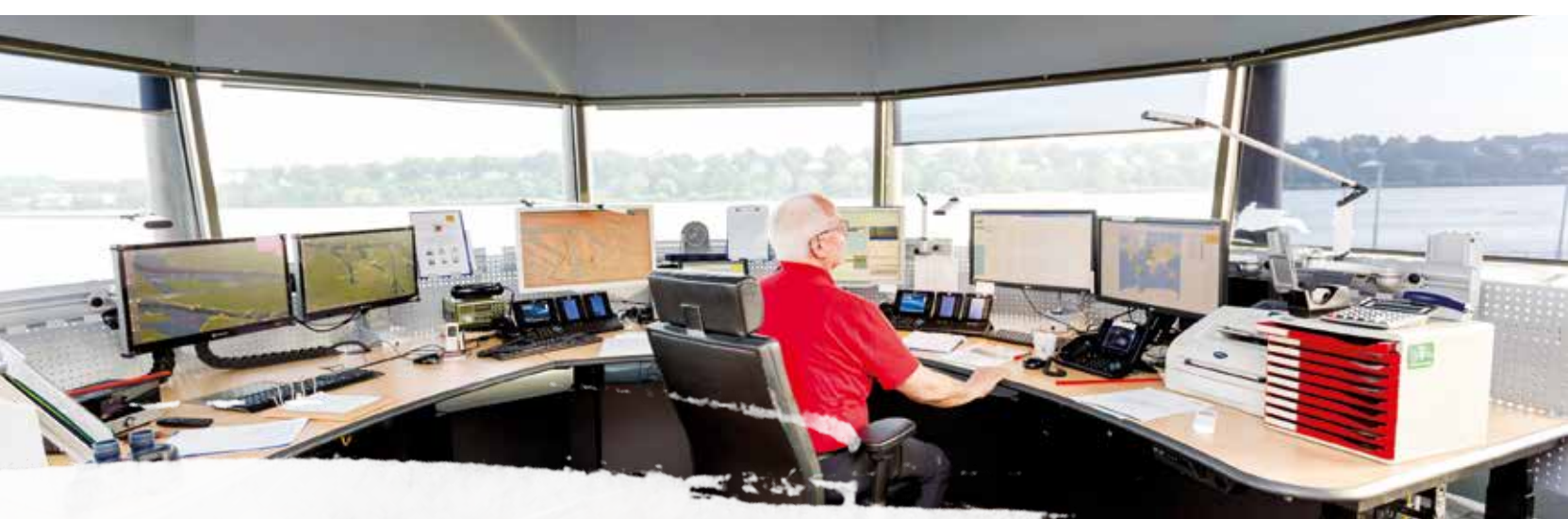
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## *We know what we're doing*

Our experienced and well-trained pilots are experts in the geography and bathymetry of the port of Hamburg. They are proficient in the manoeuvring procedures of ships of all types and sizes, including modern passenger ships, car carriers and container ships as well as bulk carriers. On board the ships, they actually take over responsibility for nautical guidance until the ships are safely moored at one of the approximately 300 berths. The knowledge for the effect of tides, wind and weather conditions on their demanding manoeuvres are based on many years of experience.



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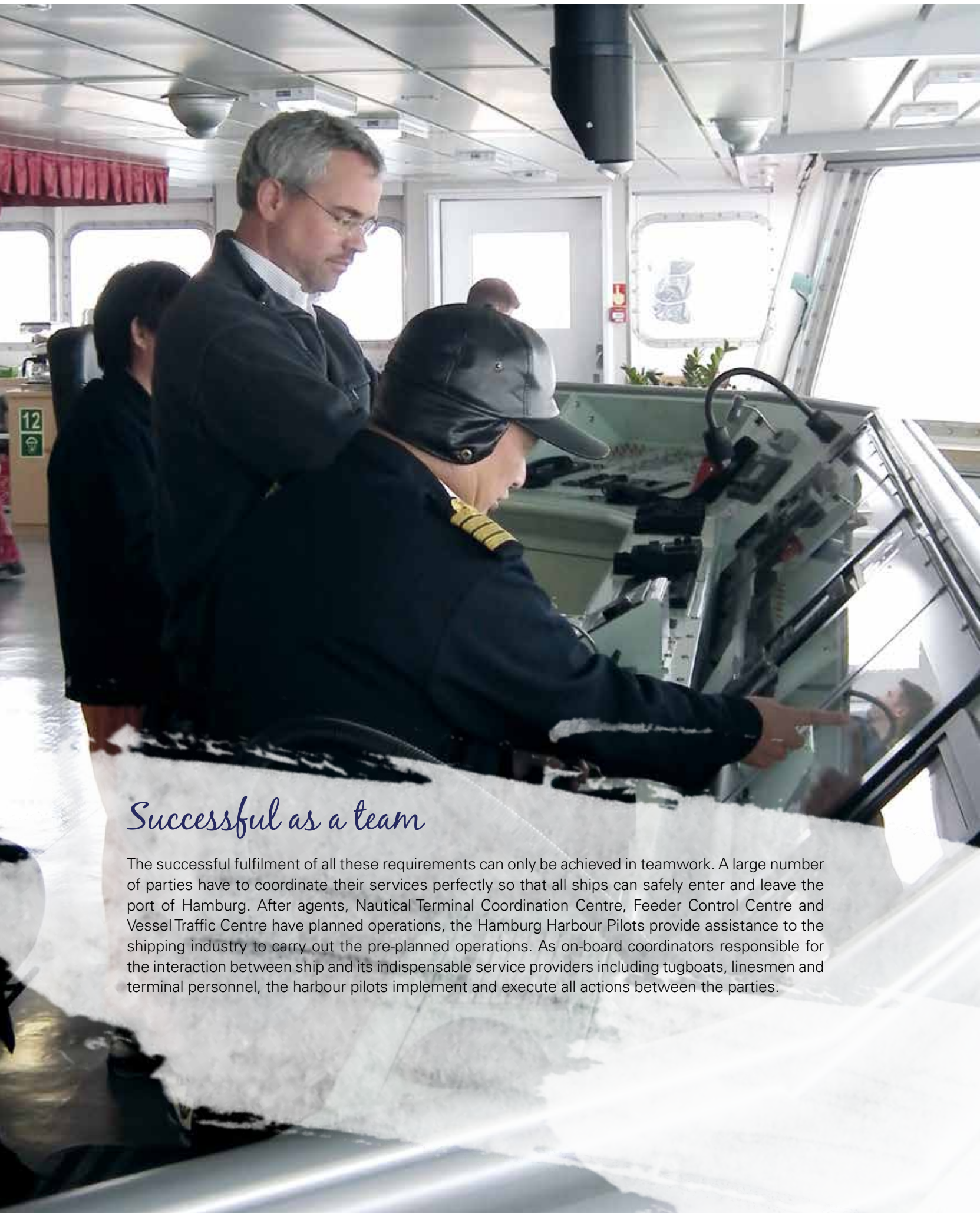
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## *Diverse tasks*

Safety and smooth flow of traffic within limited waters in the Hamburg port region is of highest priority to the harbour pilots. In order to avoid over-regulation of the traffic, the pilots' association is committed to a customer-orientated and efficient shipping. Pilots are constantly available to offer organisational advice to agencies, terminals and the traffic control centre in order to make operations run smoothly. Support and advice on the improvement of safety is also given to local authorities, which has become necessary due to the increase in the size of ships.





## *Successful as a team*

The successful fulfilment of all these requirements can only be achieved in teamwork. A large number of parties have to coordinate their services perfectly so that all ships can safely enter and leave the port of Hamburg. After agents, Nautical Terminal Coordination Centre, Feeder Control Centre and Vessel Traffic Centre have planned operations, the Hamburg Harbour Pilots provide assistance to the shipping industry to carry out the pre-planned operations. As on-board coordinators responsible for the interaction between ship and its indispensable service providers including tugboats, linesmen and terminal personnel, the harbour pilots implement and execute all actions between the parties.



## Success through support

The Hamburg Fleet's pilot boats offer an important service to the Hamburg Harbour Pilots as they allow them to be safely, quickly and reliably taken to the ships. Tugboats and their crews offer high quality support to the harbour pilots in terms of assisting ships to/from berths, where the dedicated qualified line-men at the beginning and end of the voyage carry out the rope handling.



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# Pilots' Liability in Germany

Dr. Detlef Zschoche / Dr. Eckehard Volz



## 1 Occupational risks for maritime and harbour pilots

The job of a pilot – even with precise voyage planning and focused advice – comes with the risk of accidents that are unforeseeable and ultimately uncontrollable. Providing efficient pilotage service is an administrative task of the state. It serves to maintain the safety of maritime traffic, in particular of passenger and cargo flows to and from the German ports. The pilot is the decisive human factor in this system. He is legally bound to serve any ship which requires a pilot (§ 8 [1] of the General Pilot Statute, „Allgemeine Lotsordnung“). Whether it is a functioning vessel with a capable crew, is something he must wait to find out. This duty to serve maintains in all weather and traffic conditions (storm and heavy wind, fog, dense traffic, and cramped manoeuvring spaces). With ever increasing ship sizes, the vessels that the pilot guides are difficult to control. He must make far-reaching split-second decisions. His forward-looking advice entails initiating certain manoeuvres proactively in order to bring the ship's considerable inertia mass to an exactly predetermined position by controlling movement parameters, courses, speeds, rates of turn, etc. The effect of these manoeuvres are only seen after a considerable delay and must be constantly monitored and adjusted as necessary, because of subjective contributing factors (such as bridge communication, correct nautical and linguistic understanding and implementation of the pilot recommendations, manoeuvring characteristics, and changing traffic conditions). At the same time, all available tools (propeller, pitch, rudder, transverse thruster and anchor) must be considered. Which manoeuvre is to be made when and for what purpose must be clearly decided in advance, taking into account the additional influence of currents, wind, and poor visibility. In recommending the necessary manoeuvres, the pilot can only rely on his personal experience, knowledge, and training. In this decision, there is no computer-assisted forecast which could support, or even replace, his decision. Despite the pilot's qualification and all his experience, daily practice, and ongoing further education and training, the human factor involved in his maneuvering advice cannot be excluded. The existing risks are becoming more and more acute in the light of the fact that the German transport and port industry expects shipping to go ahead in all weather and

visual conditions. As mentioned above, the pilot is under a legal obligation to advise each vessel.

## 2 Liability

German maritime pilots (as well as the Hamburg and Bremerhaven harbour pilots) are liable for intent and gross negligence in accordance with § 21(3) of the German Pilotage Act, „Seelotsgesetz“, (or corresponding state regulations). This liability was introduced in 1984 by the German legislature. It is noteworthy that until that time, no liability claims had been imposed on German pilots. According to the jurisprudence of the Federal Court of Justice, the liability of § 21(3) of the Pilotage Act also applies to German inland pilots. The originally foreseen prospect of easing the liability of § 21 (3) of the Pilotage Act has been overtaken by the developments in the last 30 years. This has led to a clear disadvantage for German maritime and harbour pilots compared to other national and international legal positions. It leads to liability risks in combination with the unavoidable risk of accident, which together the German pilots can no longer bear. This is particularly evident in the increasing number of findings of liability for German pilots (see Section 4 below).

## 3 Pilots' liability by international and national comparison

**(1)** With regard to the special occupational risks, most nations with a shipping industry have exempted their maritime and harbour pilots from civil liability or have limited it so as to preclude a risk to the continued existence of the pilot's occupation.

**(a)** The following countries exclude the civil liability of pilots: Victoria (Australia), Queensland (Australia) and Egypt (on this and the following information, see the report by Zschoche, „Civil Liability of Maritime Pilots Worldwide“ RdTW 2014, S. 194 with the respective references).

**(b)** The following countries limit the liability of the pilot de facto to intentional or reckless acts: Netherlands, France, and Finland. The demarcation is laid down by various international conventions (London Convention 1976/96, Strasbourg Convention 1988,



Warsaw Convention 1955, etc.). The pilot is only liable if he „acts recklessly and is aware that the damage will probably occur“.

**(c)** Other countries limit liability to a moderate maximum amount of liability, even in the case of gross negligence: Belgium (EUR 25,000), France (EUR 10,000), with unlimited liability in France for criminal intent only.

**(d)** In the Anglo-American legal system, the liability of the pilots – irrespective of the degree of negligence – is mainly limited to „pro forma“ sums of money that the pilot can afford and which are effectively close to an exclusion of liability: UK (GBP 1,000), Canada (CAD 1,000), various states of the USA (between USD 1,000 and 5,000), Hong Kong (HKD 1,000), Western Australia (AUD 200), Jamaica (converted EUR 670), Trinidad and Tobago (USD 620) and Slovenia (SDR 6,666). So German pilots are clearly disadvantaged compared to their colleagues in the other notable shipping nations.

**(2)** On the national level it is to be noted that that German inland pilots are positioned considerably better than maritime pilots. Under §5i of the Act on Inland Shipping, „Binnenschiffahrtsgesetz“, the liability of the German inland pilot is limited to SDR 200,000 in the case of property damage and SDR 400,000 in the case of personal injury, provided that he is not „reckless and aware that the damage will probably occur“. The German maritime and harbour pilots, on the other hand, can at most claim the limitations in the London Convention: the limitation of liability is, however, eightfold higher than for inland pilots, namely SDR 1.5 million for property damage and SDR 3 million for personal injury. It is obvious that the abovementioned limitations of liability for maritime and inland pilots are purely academic. It makes no difference whether a pilot is forced into bankruptcy by a claim of EUR 200,000 or EUR 2,000,000.

#### 4 Increase of liability claims in Germany

**(1)** Since the entry into force of the Pilotage Act 1954 and its amendment in 1984 (with § 21(3) being introduced), there had been no liability claims against pilots – until the year 2000. This changed little until 2003. Since then, however, the findings of liability of German maritime and harbour pilots have increased considerably, especially since 2011 (see Zschoche, „60 Years Pilotage Act - Assessment and Criticism“, VersR 2014, p. 1029 ff.). In 2011, there were three liability claims against maritime pilots (one a seven-figure sum). In 2012, there were two liability claims. In 2013 there were five claims for liability, of which three were seven-figure sums. In 2014, there were three liability claims with seven-figure sums. In 2015, there were five liability claims, three of them with seven-figure sums. In 2016 there were eight findings of liability. One of the latter was a liability claim for EUR 110,000,000. With these magnitudes, it is clear

that a sufficient liability insurance cannot be covered. The increase in the number of liability claims alone has led to the fact that the liability insurer of the German pilots (who covers only a comparatively small liability sum) has already announced that the continuation of the existing liability insurance is in question.

**(2)** This development in Germany is unique worldwide. A similar increase in the number of findings of liability against pilots has only been seen in some US states. In the Scandinavian countries, liability claims are as little known as in England, France, Holland and Belgium. In Finland, pilots used to be held liable repeatedly. The Finnish State has, however, responded with the new Finnish Pilotage Act of 1 January 2011. With Sec. 4 FPA, the liability of the pilots there has been practically excluded.

#### 5 Conclusion

German maritime and harbour pilots are exposed to an unequal and de facto incomparable liability risk not existing anywhere else worldwide (except in some states of the USA). The associated danger of liability risks is of a potentially disastrous magnitude. The effects on German pilotage, not least the psychological burden placed upon pilots by the regressive practice in Germany, cannot be stressed enough. The only explanation for the singular development in Germany is that the limitations (or exclusion) of liability fall far behind foreign countries. This justifies an urgent need for action by the German legislature.

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## *The harbour pilots' team - a passionate crew*

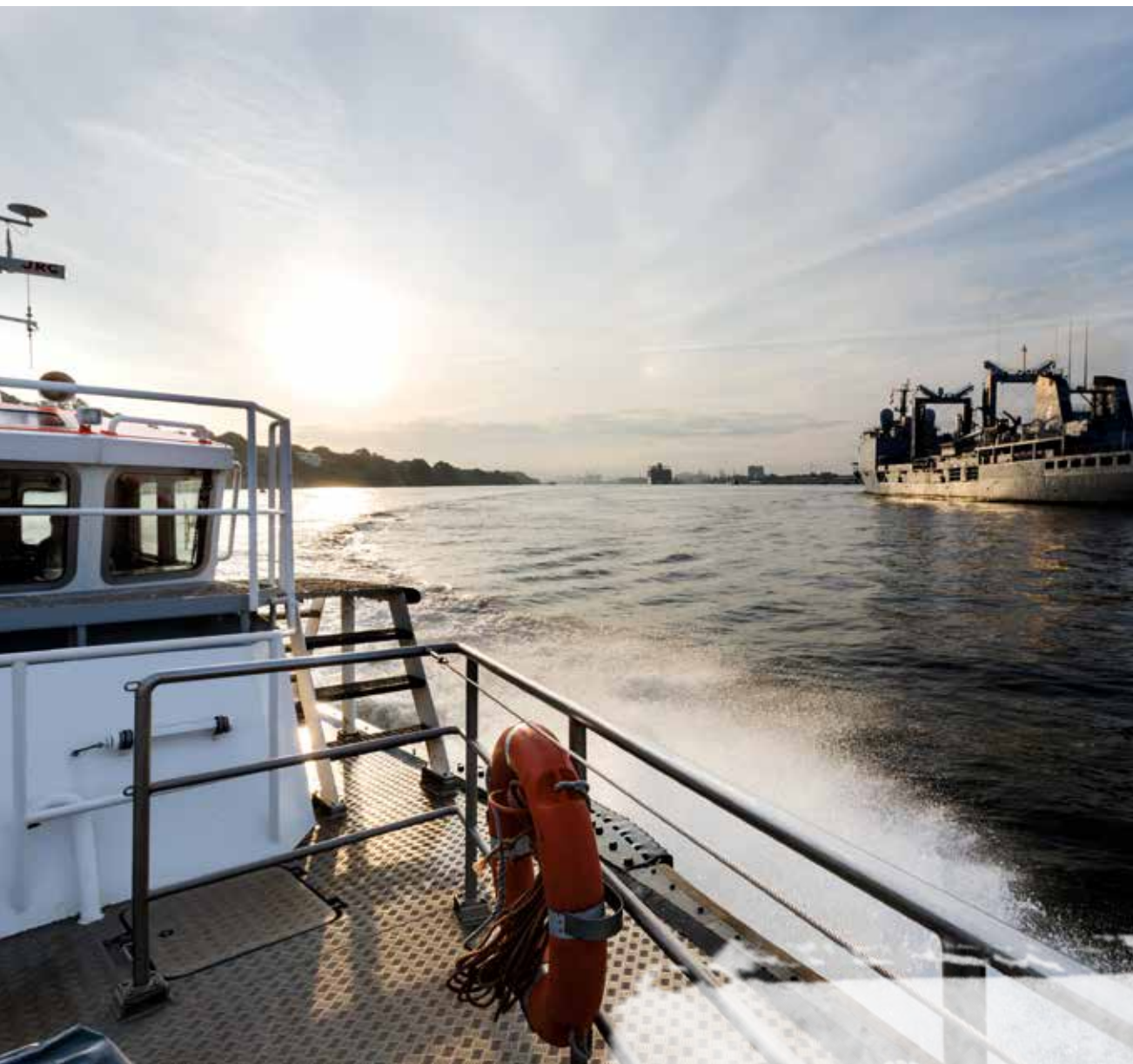


There are currently 70 freelance pilots working at the Hamburg Harbour Pilots' Association. Anybody who professionally wants to manoeuvre ships in the port of Hamburg has to be a member of our public corporation. The "Ältermann" (Chairman) and his deputy (Vice Chairman) lead the association and act as its representatives. They are supported by three council members, who, like themselves, are elected for a five-year period.

The complex navigation channels, port basins and berths require the harbour pilots to work together in a responsible and cooperative manner.

A friendly and trusting internal relationship is achieved by creating a tight-knit community, e.g. through jointly participation in sport and leisure activities.

The Harbour Pilots' Association includes a very effective and lean administration. In addition to accounting and invoicing, the tasks of the association also include organizing the pension scheme, necessary insurances, internal operations and much more. These are tasks that freelancers would otherwise have to take care of themselves. There are four highly qualified employees in the office available to carry out these tasks.



## *Highest requirements*

The tasks of harbour pilots are demanding and call for high-level qualification as well as experience. When it comes to their task of advising the captain in regards to port and navigation, pilots assume great responsibility for the safety of shipping. Prospective candidates who intend to work as a Hamburg Harbour Pilot must firstly have acquired an STCW-Master licence and obtain a minimum of 24 months seagoing experience with that licence. A pilot needs to be able to work under pressure in order to act decisively in difficult situations. A medical examination is carried out in order to determine whether the candidate possesses the physical and psychological requirements necessary for this role.





## *Practical experience is essential*

In case of successful application, the trainee pilot goes through an 8-months training program for the port territory, which culminates in an examination at the supervisory authority (HPA). After passing the examination, he will be appointed as a harbour pilot. In the following 6 years the new pilots have to gain experience on ships of limited size in order to get knowledge of all the types of ships and manoeuvring before they are allowed to navigate all kind of ships in the port of Hamburg. The pilots are required to have a good knowledge of both German and English language in order to be able to communicate with the captains and seafarers.



## *Always up to date*

Measuring up to 400 metres in length, modern container ships are of enormous size. Regular training is essential in order to navigate ships of this size through the restricted traffic areas in the port of Hamburg. Situations frequently occur which call for the pilots to have maximum levels of concentration. These include passing safely through the Köhlbrandbogen, encountering other ships as well as safely stopping and turning around in the narrowest space. Pilots regularly participate in simulator training for these situations. As part of this process, each manoeuvre is evaluated and discussed together with the colleagues and instructors. In the simulator, different types of ships can be represented and technical failures and different environmental influences such as wind, fog and tide can also be simulated. Consequently, every pilot is prepared for the next incoming ship as to the greatest extent possible.



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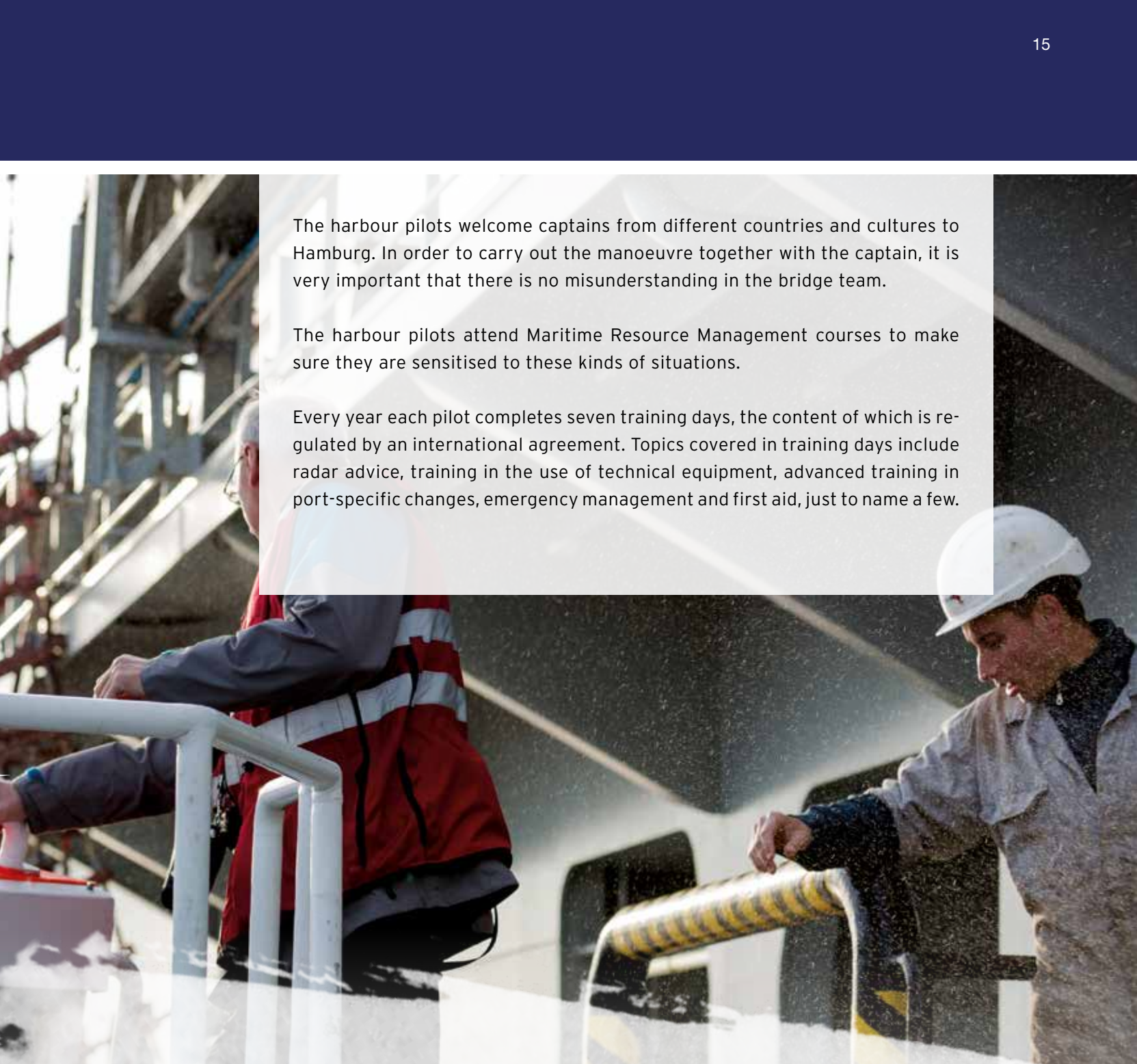
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The harbour pilots welcome captains from different countries and cultures to Hamburg. In order to carry out the manoeuvre together with the captain, it is very important that there is no misunderstanding in the bridge team.

The harbour pilots attend Maritime Resource Management courses to make sure they are sensitised to these kinds of situations.

Every year each pilot completes seven training days, the content of which is regulated by an international agreement. Topics covered in training days include radar advice, training in the use of technical equipment, advanced training in port-specific changes, emergency management and first aid, just to name a few.

## Our knowledge for your business

**We** offer trainings for maritime pilots as well as for nautical staff. All of our courses can be tailored to meet your individual needs or may be completely redeveloped to suit your business

### These are some of our courses

Maritime Resource Management  
Handling AZIPOD propulsion systems efficiently  
Manoeuvring with tug assistance  
Hydrodynamics  
Effective Mooring

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**For further informations please visit our website or do not hesitate to contact our office in Hamburg**

**Whatever** you are planning concerning nautical projects, be it in the Port of Hamburg or any other port in the world, we are happy to offer our support and expertise. We can advise, plan, supervise and implement your project, either independently or with your cooperation

During international enterprises, we send our experts on location to accompany the project from start to finish

From nautical feasibility studies to evaluations for harbour developments around the world, our experts draw on specialised nautical and pilot-specific knowledge to fulfil your project objective



## *Our expertise is in demand*

The Hamburg Harbour Pilots' Association also offers an advisory service, possessing both expertise and experience. For example, we are commissioned by the port authority to inspect whether and under which conditions large ships are able to enter the port of Hamburg. We have to consider questions such as which requirements have to be fulfilled to make sure the ships up to 400m in length can be safely manoeuvred to their berths. Tides, wind strengths, traffic and geography of the port: all parameters are taken into account. Our harbour pilots provide clarity!

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## Individualised advice

Our expertise is also in demand internationally, e.g. for building port basins abroad. Planning port facilities is a task that needs to be carried out by professionals because many different factors, such as structural and weather conditions, must be taken into account in order to ensure that ships can be safely manoeuvred during loading and unloading. The comprehensive expertise of the Harbour Pilots' Association is of great benefit and is appreciated by authorities and builders.

Different types of ships are manoeuvred in the port of Hamburg. We are happy to share our experience. The individual training of ship navigation and piloting from other ports is very important to us.



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## *Affiliated to the port*

Harbour pilots carry out many different kinds of work for the port. Volunteer helpers support institutions and societies such as the operating company of "Cap San Diego", the steam ice-breaker "Stettin" e. V. and the HHLA (Hamburg Port and Logistics) crane 1 "Karl Friedrich Steen". Furthermore, they have an eye on the future and offer placements for those interested and willing to get involved in these schemes, from students to captains still in service. Pilots from all over the world, e. g. Panama Canal Pilots, appreciate their colleagues in Hamburg because of the assistance they have provided them in developing their own manoeuvring strategies.



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## *The result is perfect*

As a competent partner, the Hamburg Pilots' Association offers assistance to its partners and the port at all times no matter what tasks they undertake: 24 hours a day – 7 days a week – 365 days a year. Our services involve us continuing to tackle the economic and technical challenges faced by the port of Hamburg and other port operators in the future.



## **Maritime Forschung und Weiterbildung im Norden**



Das Maritime Zentrum der Hochschule Flensburg bietet zahlreiche Weiterbildungsmöglichkeiten für die Schifffahrt und Lotsen! Neben unseren diversen Forschungsprojekten bieten wir zahlreiche maritime Studien und Analysen an. Sprechen Sie uns gerne an!

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