



Criminalisation of Seafarers – Ensuring Fair Treatment?

Principal Author: Capt. Bert Wardetzki
Co-Author(s): Mr. Christopher Gray
Affiliation: Zeller Associates Management Services GmbH

Abstract

The continuing targeting of Masters for criminal actions has long-ago drifted from the USA over to the rest of the world – resulting in some high profile cases, including the Prestige, Tasman Spirit and more recently the ZIM Mexico III, again in the USA. The trend of marking the Master as a potential target in MARPOL cases or those resulting in unfortunate deaths is increasing worldwide – despite the often heroic efforts of the Master to mitigate the damage. Deliberate actions which result in loss must clearly be dealt with to the full extent of the law, but whilst it is appreciated that pollution incidents in particular can cause widespread loss and devastate livelihoods, the victimizing of a Master by locals who believe he is of suspect nationality and with a strange name does not give a right to remove his fundamental human rights or equality before the law. The media frenzy often controls public opinion but the solution is not to “hang the Master high”.

Little consideration is given to the humanitarian element and the Master is often treated as a creature with a serious security risk – it promotes a “blame the Master first” culture when an incident occurs and authorities are under pressure to be seen to taking action. The question is what can be done about this to help the industry and above all to ensure that Masters are treated in a just and fair humane manner? A further problem, in light of the crew shortages, arising therein is how do the younger generation of potential seafarers view this and what can be done to allay their fears and attract them into the industry.

This paper looks at the development of this tendency in countries worldwide, potential future scenarios whilst considering European legislation to govern this, as well as individual countries legislation with reference to imposing criminal sanctions on those considered responsible.

Solutions to this ever growing concern, especially for seafarers are put forward including:

1. Powers for International bodies and the effect of lobbying States to take action
2. World-wide conventions covering Master's responsibility
3. Potential legal solutions and the realistic worldwide acceptance
4. Other solutions, such as commercial answers to aid the Master