

P&I LEGAL CLAIMS CASES STUDY



IN THIS EDITION

Our Odessa, Novorossiysk and Vladivostok branches discuss P&I legal cases which were recently handled by their teams.

These case studies also provide recommendations which can be of assistance to P&I Clubs and their Members.

This Newsletter is prepared by CIS PANDI Services Ltd towards IG P&I Correspondents' Conference 2017

CIS PandI Services Ltd is the network of P&I correspondents covering the territory of entire Former Soviet Union (Russia, Ukraine, Central Asia and Baltic states) as well as Cyprus, Cambodia and China.

We are correspondents for all IG P&I Clubs and a number of Fixed Premium Clubs.

Representatives of our network will attend the forthcoming IG P&I Correspondents' Conference in London and will be glad to elaborate on the issues discussed in this volume.

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UKRAINE

1. Administrative cases.

a. Cases with local Immigration authorities.

P&I Correspondents administrative cases are quite significant part of day-to-day activities which includes disputes with Custom and Immigration Authorities, Sanitary and Quarantine Services Authorities as well as with PSC and Harbour Master departments. In Ukraine, administrative cases are regulated by several laws including: Code of Administrative Transgressions., Custom Code, Immigration regulations, etc. Under the Law, administrative matters should be finally settled by local courts and Master is entitled to represent Shipowners in the court together with local lawyer for administrative cases, or issue power of attorney as per the special format in favour of local lawyer for representation of Ship-owners in the local courts. Moreover, despite relatively small amount of administrative fine, the cases may entail severe sanctions including confiscation of undeclared ship's items, or its custom values, goods, detention or administrative arrest and consequent deportation of persons and crewmembers without valid identifying documents, and other sanctions such as ship's detention or delayed sailing from port.

As Legal P&I Correspondents we have licensed lawyers in our staff and we assisted Ship-owners

in several administrative cases with local Immigration authorities.

Case study:

Immigration authorities during inspection and inward formalities on the vessel found that Chief Engineer had two passports: one passport on his name as Russian citizen and another passport on his name as citizen of Ukraine.

Both passports were legally valid. Double citizenship is prohibited in Ukraine. Chief Engineer was from Sevastopol, Crimea and obtained passport of citizen of Russian Federation after annexation of Crimea in 2014 however he kept the Ukrainian passport as well. Immigration authorities drafted a protocol on infringement of immigration rules; both passports and seaman's book were seized. All materials of the case have been passed to the local court together with both passports and seaman's book. Upon Club's/Owners' request we discussed the case with Master, agent, Chief Engineer before the hearings and Chief Engineer was well prepared to the hearings. We attended court hearings, provided legal assistance to Chief Engineer, passed our explanations to the judge and convinced judge to return the passports and seaman's book. According to court's judgment Chief Engineer was not signed off, he returned to the vessel and continue his employment, only small administrative fine was paid and supporting voucher has been submitted to the court, seaman's book and both passports were returned to seafarer at court room.

P&I Correspondents' recommendations:

- Immediate appointment of P&I Correspondents to avoid further complications.
- Correspondent to liaise with ship's agent and Master and get all necessary initial information about the case and immigration's position;
Collect the full set of evidences, crew list, passports copies, protocol, etc;
- Send regular updates to Club/Owners and inform immigration about our attendance in this case;
- Discuss the situation with crewmember before commencement the court hearings, ideally to get his explanations in writing by means of issuance relevant statement;
- Attendance at the court together with crewmember and explain in legal terms accepted by court that person should not be held liable for political issues between two countries.

b. Cases with Custom Authorities.

It is well-known to Shipowners that under Ukrainian regulations prior to arrival at the port amongst many

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documents that have to be presented to the authorities, it is generally the requirement of local custom authorities that for inward clearance the custom declaration has to be completed with all items on board, goods, materials and spare parts, bunker quantity, paints, medications, etc. List of mandatory items to be declared is not clear enough and create significant problems with Custom Authorities if some items were not declared properly of information contained in custom declaration is incorrect.

Thus, misdeclaration of items onboard is a problem. As Legal P&I Correspondents we assisted in shipowners' representation at local courts in custom related claims and reached a positive outcome in several cases with local custom authorities.

Case study:

Custom authorities conducted a search onboard and found undeclared lubrication oil in drums in engine room, Despite the explanation that lubrication oil in drums is necessary for vessel and it is part of vessel's consuming materials, Custom Authorities prepared protocol on confiscation of seized undeclared goods or its custom values and passed case materials to the local court for consideration. We were notified about this case and visited the ship before sailing, discussed matter with the Master and Chief Engineer, obtained their statements that lub oil in drums are necessary for proper technical maintenance of the vessel and her seaworthiness. We prepared and obtained power of attorney from the Master duly signed and stamped. We negotiated the case with Custom Authorities and convinced them not to detain the ship in exchange of providing Letter of Guarantee used by agent to pay the custom values of goods in case of issuance negative court judgment and vessel sailed without delay. Some months later we attended the hearings, we submitted power of attorney issued by Master along with Master's and Chief Engineer's witnessing statements and proved that lub oil necessary for vessel's current technical maintenance and repair and requested that custom authorities' decision should be cancelled. Court accepted our explanations and legal position and issued a judgment on releasing the sized items and did not impose any obligation on Shipowners to pay any fine. Due to our involvement as legal P&I correspondent vessel sailed without delay, no fines imposed on Shipowners and we proved that Custom Authorities demands should be rejected.

This case illustrates the importance of ensuring that custom declarations are accurate, if there is any doubts, the agent at the port or P&I Correspondents in the port of call should be contacted for advice and assistance.

P&I Correspondents' recommendations:

- Immediate appointment of P&I Correspondent to avoid further complications.
- Liaise with ship's agent as a matter of urgency and ask ship's agent to assist Master in proper completion the custom declaration, and make corrections and/or amendments, if needed;
- Liaise with Master, Chief Engineer and obtain all necessary information about Custom Authorities' demands and possible solution, such as provide Letter of Guarantee from Legal P&I Correspondent or agent in order to release the vessel as soon as possible;
- Send updates and inform Custom House about our attendance in this case;
- To collect the full set of evidences, customs declaration, manifests, protocol, list of undeclared items, their characteristics and usage on board
- To discuss the situation with Master and Chief Engineer before the sailing the vessel, obtain their witnessing statements referring to the reasons of non-declaration or incorrect customs declaration;
- Prepare and obtain power of attorney for the court (bilingual wording in two columns: in Ukrainian and English) signed by Master and certified by ship's stamp;
- Attend the court and explain our legal position to the judge in terms understood by the local court



2. Personal injury and illness compensation claims.
 - a. Mitigation and out of court settlement of personal injury claims.

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Ukrainian courts have pro-labour approach to seafarer's personal injury claims.

Our long Legal P&I Correspondent experience proved to be useful in mitigating personal injury claims that involve seafarers and their lawyers by means of out of court solutions. Mitigation of personal injury claims is a matter of priority in our activity in order to avoid costly and lengthy legal proceedings with unpredictable results and potential risk of arrest of the vessel as a security measure.

Case study:

Seafarer worked as AB and suffered a complicated leg's fracture whilst employed. 120 days after the injury the seafarer remained disabled. On the initial stage of claim handling, the local manning agent was instructed by Shipowners to handle the claim with the seafarer. A lawyer appointed by the seafarer claimed for 100% disability plus medical and rehabilitation costs, moral damage, legal costs, etc. We negotiated the claim and found that the seafarer had no legally valid medical documents (disability certificate, report) confirming his degree of disability. Moreover, it was not clear if his disability is permanent or temporary? We also verified that the seafarer did not visit doctors regularly and treatment was not properly arranged. We required and finally agreed with the claimant lawyer to appoint independent medical experts from Club's P&I accredited local clinic. Medical examination held in our presence showed that the seafarer was indeed disabled, however, the doctors advised that in case of regular qualified medical treatment and medical assistance, the seafarer will retrieve leg's moving abilities hence disability might be reduced in the future. Thus, we obtained a legal ground to start the negotiation with the claimant.

After difficult negotiations with the seafarer's lawyers, settlement was agreed on the basis of USD 65,000, comparing with substantial claimants' demands in amount USD 120,000. Moreover, medical charges were reduced and we agreed only a lump sum compensation payment. We arranged signing R&R at Notary office and claim was settled finally without negative consequences as claims in tort, moral harm, legal costs and any auxiliary extra costs which most probably would be imposed in case of commencement of court proceedings.



b. Handling of crew illness claims in Ukrainian courts.

Ukrainian courts are favourable to claimants in illness and personal injury claims. As Legal P&I Correspondent, we represent Shipowners in local courts in illness and personal injury cases and we reached reasonable settlement of such claims in the local courts as well.

In a recent case, a seafarer claimed disability compensation due to a heart attack onboard, stating that his disability occurred during his employment and consequent delay in his repatriation and hospitalization. A lawyer was appointed by the seafarer. We arranged a duly apostilled power of attorney to represent Shipowners in court. We sent our attorney's inquiry to the various medical facilities and received the medical documentation. Despite the seafarer's clean P&I certificate and passed analysis on various criteria, it was proved that the seafarer had cardiac pre-employment problems and used considerable medical treatment prior to the employment. We submitted the collected valid legal evidence – medical certificates/reports which proved that the seafarer had pre-employment illness and Shipowners are not liable for any delay in his repatriation and considerable deterioration of his state of health. We asked medical advice from our medical consultants from P&I accredited clinics and they confirmed that the seafarer had general illness not related to performance of his professional duties onboard. As a result, an amicable agreement has been concluded and approved by court resolution on a reasonable amount (USD 20,000) versus the original claim for USD 85,000. Vessels were not detained or arrested as a security. Other auxiliary demands such as: moral damage, legal costs, medical and rehabilitation costs, etc. were rejected.

P&I Correspondents recommendations.

- Appoint Legal P&I Correspondents with appropriate qualification and experience for handling personal injury claims, i.e. not manning agents who are less capable to handle such cases.
- Start negotiations with the seafarer's lawyer immediately and request true and valid medical documents with the seafarer's disability degree, current status and recovery prospects;
- Collect all medical documents (reports, certificates) as evidence related to the seafarer's state of health, request medical examination preferably at Club's P&I accredited clinic. All collected medical documents should be forwarded to Shipowners/Club without delay;

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- Send a lawyer's inquiry to the medical facilities concerning to seafarer's state of health and possible treatment before the employment;
- Keep permanent contact with seafarer's lawyer, doctors, medical experts and P&I medical consultants;
- Negotiate the amount of claim based on the seafarer's medical documents available;
- Arrange signing of full and binding Receipt & Release at Notary Office in the presence of Legal P&I Correspondents and seafarer's lawyer, or in case of the litigation in the court, sign with the claimant's lawyer settlement agreement in the court room to be duly approved by the court resolution;
- All compensation payments should be arranged against duly signed claim settlement documents only (R&R, settlement agreements and court resolution).



3. P&I legal assistance in criminal cases with Ukrainian authorities.

It often happens that Shipowners deal not only with civil liability claims but also with criminal affairs in crew claims. Criminal aspect is very important because of its effect also on settlement of civil and contractual liability claim. Therefore in criminal cases legal assistance of Legal P&I Correspondent is extremely important especially in the initial stage of the claim, i.e. during the process of collection the evidences, witnesses' statements, discussion of the circumstances of the case with Master, crew, police and Public Prosecutor. Legal P&I Correspondent should be appointed and instructed immediately in case of criminal affair with vessel's and crew's involvement. Final outcome and sum of compensation in most of cases with criminal aspects depends on timely and qualified involvement of Legal P&I Correspondent.

Case study:

While anchorage of vessel at Chornomorsk port, vessel's electrician reported stomach pain and vomiting and went to his cabin for rest but did not request urgent medical assistance. As his health condition got worse, Master requested agent's assistance in arranging seafarer's disembarkation and hospitalization ashore by launch boat. Unfortunately during evacuation the seafarer passed away. Police was notified and boarded the vessel for

commencement the criminal case and investigation. Master was invited for interrogation at police office. We were notified as legal correspondents and managed to meet the Master on board to discuss the incident before the official interrogation. It was found that bottle with technical liquids with label "Ethyl" was absent at engine room box specially designated for storage of technical liquids for cleaning the electrical equipment. This empty bottle with label "Ethyl" was found at the cabin of deceased seafarer. We took relevant photos. Master was interrogated at police office in the presence of Legal P&I Correspondent. The relevant statements have been prepared and given to police investigator with request to carry out the autopsy and toxicology examination of deceased. The deceased's family hired a lawyer. As a result of our legal defence, the vessel was not detained; all search actions were carried out onboard by investigator before the completion the cargo operations. During one month, we obtained the results of toxicology analysis examination. Ethyl concentration at blood of deceased was found by the experts, the same ethyl parameters were found at the labelled bottle at deceased's cabin. Thus, criminal case was closed on the basis of toxicology report and local court rejected the claimant's lawyer's request to resume the criminal case and cancel the resolution on the closure of criminal case as per deceased's family request. The feature of such cases that in case of absence of Master's and Shipowners' liability in criminal case there are not any civil liability, i.e., there are not any legal grounds for further death compensation claims after the closure the criminal case. Due to legal assistance arranged by Legal P&I Correspondent several legal problems have been solved:

- Vessel sailed in time without detention nor delay;
- Criminal case was closed and it was a legal basis to reject a civil claim of next of kin;
- It was proved that Shipowners and Master are not liable for seafarer's death and any legal grounds for death compensation claims are absent.

P&I Correspondents' recommendations:

- Instruct P&I Correspondents to attend the vessel immediately and discuss the incident with Master, ship's officers and other witnesses;
- Collect evidences relating to the alleged criminal case, interview crew and obtain relevant statements duly signed and sealed by ship's stamp. All collected legal evidences

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should be forwarded to Shipowners/Club by P&I Correspondents without any delay for their perusal;

- All crew's statements should be studied thoroughly by legal P&I Correspondent before submitting to the investigator and court and in case of any discrepancies or uncertainties crewmembers should be asked for clarifications and relevant corrections to the wording of statements should be made;

- Assist Master during interrogation, to submit attorney-at-law certificate to the police investigator or Public Prosecutor because in criminal proceedings only certified attorney-at-law should participate.

- Keep continuing contact with police and request all official documents from the police authorities and Public Prosecutor;

- P&I Correspondents should be onboard as much as needed to monitor all authorities' actions and assist Master till completion investigation and attend the court hearings and explain the legal position of Shipowners and Master to the judge.

All above-mentioned case studies are given as examples how Legal P&I Correspondents should deal with Ukrainian various authorities, claimants, etc. in order to provide qualified legal support and assistance and guidelines to Masters and protect Owners' interests in Ukrainian ports.

**By Pavel Svertilov
CIS PandI Ukraine**





RUSSIA (NOVOROSSIYSK BRANCH)

1. Death compensation and Collective Bargain Agreement (CBA)

In recent years, we are facing increased number of personal injuries, hence handling variety of cases, often specific and quite unique. It is difficult to estimate in what particular manner should a "people's claim" be handled and creating an algorithm of actions is not practicable. Yet, we noticed some typical issues, which we wish to enlighten.

First, we noticed that most of Collective Bargain Agreement (CBAs) under the latest Marine Labour Convention (MLC) regulations contain very similar death compensation clauses, which are to be followed in any country of a late seafarer's residence. It is obvious that some of countries may have local Legislation different from the regulations of the agreement but even for the others, having rectified the Convention and, therefore, the most of CBA standards, the local Law could provide room for construing the paragraphs each time in a different way. The most common issue we face here in Russia is the fact that the "nominated beneficiary", very often a body entitled for receiving the death compensation is not indicated in the Contract of Employment or any other enclosures to the same. Going forward into the wordings we usually have a supporting clause or sentence stating what rule should be implemented in case of absence of such "beneficiary", however, there are many cases when at the same time we may see a box/line/field "Next of Kin" (NOK) completed correctly with a name and details of a person, who the late seafarer entrusted to receive a death compensation.

In Russia, there is neither specific Law nor a precedent for such circumstances, and this produces confusion by the end of the day when undergoing repatriation process, standing before the compensation matter and release formalities.

In such cases an obvious understanding of a Ship-owner would be that a late seafarer had an intention for the "Next of Kin" to receive compensation in case of death and was

just confused not comparing the exact phrases in CBA and Contract of Employment (COE) or even not reading a CBA at all relying only on basic knowledge of the Maritime Labour Convention (MLC) terms.

A reasonable question would be: can a Ship-owner be certain that he will not face another claim from a legal heir and upon a logically understandable rejection, and will not be sued with allegedly undone obligation, which could produce a double-payment by the end of the day.

Of course, the answer is "No", and yet if it is a case, what particular rule should be followed then and should it be simply done otherwise, i.e. just a compensation to be paid to a person entitled to receive it in case that there is no name of a "beneficiary" in the COE (or enclosures).

Unfortunately, the answer here is still "No" and this produces another confusion.

Based on our statistics, 70-80% of all such cases show that legal heirs are often the same as "NOK" or "beneficiaries", however, there are still number of cases when the situation is different.

We will put an example first and then will revert with our recommendations to follow.

Case study

A seafarer sadly passed away on board a vessel. He signed a COE prepared in strict accordance with MLC terms together with an ITF/IBF CBA referring mainly to salary and working hours terms in accordance to the above-mentioned CBA and also having no specific terms for death compensations etc. In CBA, we found the above clauses however there was no indication of a beneficiary but only a "Next of Kin" box inside the CoE, that did not mention any family relative (only his friend). The deceased had an adult daughter and the important fact was also that he had never been married.

Although it did not fully comply with CBA regular terms, we fully shared the view of Ship-owner that it would be unfair not to compensate the NoK, who the seafarer intentionally indicated being of sound mind.

The situation became easier once we found that the listed NoK and the single legal heir (the daughter of the deceased) were in good relations and ready to share the death compensation, moreover, each of them independently intended to do so.

We had then prepared an Agreement between them in addition to the typical Receipt & Release agreement

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stipulating the terms of payment and sharing of the compensation.

This complicated case, however, made us investigate such kind of cases deeper with regards to the existing Legislation in Russia.

Our conclusion unfortunately did not meet the expectations.

Dealing with death at sea claims produces liability for the Ship-owner in any case under the terms of MLC, however, the implementation of relevant CBAs correctly under the International practice would not always eliminate some risks of inappropriate court decisions.

We found that the practice and precedents showed quite opposite court tendencies. Some are referring to CBA terms, however, many other judges treat even some documents, showing the clear identity of "beneficiary" as an inappropriately arranged, and therefore, rejects relatively basic demands.

We found that that the number of related court decisions in this matter in Russia is limited, and we had to use sources outside South Russia (our region of operation) to collect sufficient quantity of precedents.

P&I Correspondent Recommendations:

1. Collection of full package of documentation and every enclosure to a CoE, signed by the seafarer;
2. enquiring about seafarer's heirs and family members potentially having any possible opportunity to claim for a heritage/compensation, etc;
3. Be prepared for defense against potential distant claimants;
4. Even in case of several alleged beneficiaries reaching an amicable intention to share the compensation, it is very important to arrange for special Agreement prepared by an experienced lawyer and signed by all parties. This would save future unpleasant "surprises".



2. Customs related claims

In recent years, we are facing number of customs related claims of similar or resembling nature and, therefore, we are happy to share a strategy of handling same with interested parties.

Each and every case could be generally similar with an example described further but particulars still may vary, causing increased risks to Ship-owner/Charterer.

The most severe cases Shipowners and Charterers may encounter in the Black Sea coast is improper declaring of goods on board or non-declaring them at all.

In Russia customs usually refer to the article 16.2 of Administrative Violations Code of Russia and relevant punishment could be chosen among several following options (all related to the goods/cargo undeclared or improperly declared): confiscation, administrative fine in amounts up to double market price of goods, both sanctions may be implemented simultaneously.

The market price of goods is always determined by a governmental expert but still can very much vary from the actual cost of goods/cargo. This may produce a confusion in the court even in case if Ship-owner or Charterer is saving expenses for claim handling and is fully accepting liability for the violation, because the administrative fine imposed in such circumstances could be substantially different to the one expected by a suffering party.

Despite of risks listed above for most of minor claims and violations, we do not recommend to appoint a lawyer and, moreover, usually suggest to make an application to the customs making them forward the case to court with a remark that the claimed party (Shipowner/Charterer) was cooperating during the formal procedures and investigation.

This usually makes minor investigations in customs and also related formalities go smoother and quicker.

Case study

Vessel arrived in Novorossiysk and during the inward clearance formalities it was noted that the Master did not declare some expired pyrotechnics. This became noticed by the customs who made procedural actions in this connection. The vessel was not detained or arrested, however, administrative case commenced against the Master and Ship-owner.

We met the customs officer in charge and discussed the circumstances of the case, explaining that the Master was not aware of the expired but still retained pyrotechnics and was not intentionally hiding same.

It was further decided also not to involve a lawyer to save costs as the claim amount in question was less than USD 1,500. We asked Ship-owners to arrange formal letters to court and customs and the case was closed with single

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imposed sanction – confiscation of goods without an administrative fine.

P&I Correspondent Recommendations:

1. Carefully study the documents issued by the customs (protocols, interrogation lists etc.) and obtain the code of violation/article;
2. Obtain information regarding possible minimum and maximum punishment and any existing related sanctions;
3. Contact the customs officer in charge for proper explanation of the case.

We have to underline that such recommendations shall never be applied to the bunker undeclared (under any reason), because bunker disputes in customs could attract more attention of police and prosecutor's office, therefore, it is of utmost importance to have an experienced lawyer protecting the Members' interests in such circumstances.

By Denis Shashkin
CIS PandI South Russia





RUSSIA (VLADIVOSTOK BRANCH)

1. Immigration and border control issues

a. Cases with local Immigration authorities.

We have had a number of cases when vessels at Kholmsk port (Sakhalin) were rejected clearance to proceed to her loading port in Russia.

In the first case, vessel departed from Kashima (Japan), proceeding to Boshnyakovo (Russia), where Master's family (Son & Wife) joined the vessel.

Member was informed that the family had to signed-off prior arrival at Russian Port, as they did not have Russian Visa. Master's family should have obtained Tourist Visa from Russian Consulate in Japan, prior departure.

The second case dealt with two Greek superintendents on board vessel that visited Kholmsk port (Sakhalin) to receive clearance to proceed to loading port Boshniakovo in Russia.

The problem was that the superintendents were holders of valid Greek and Cyprian seaman's book, but the vessel was registered under the Marshall Island flag.

Vessel's clearance was rejected by the immigration due to the fact that the superintendents had not in their possession Marshall Island endorsement

The common problem for these two cases is the fact that Boshnaykovo is a small port where there are no immigration offices nor border control station.

Therefore, all immigration and border control issues are conducted in Kholmsk.

Had the final destination been Kholmsk, then the master's family could have stayed aboard the vessel without permission to leave the vessel and go ashore, however for entry to small port such as Boshnaykovo, the vessel should be free of all persons who are not permitted to stay in Russia.

Unfortunately, in such situations there is no room for negotiations and neither Correspondents, nor the agent are able to assist with entrance clearance. Any argument with immigration or other marine administration authority would only lead to escalation and worsening member's position.

In the first case, the vessel was re-directed to Busan, Korea in order to sign off the master's family; in the second case, a tug boat was hired to deliver the Greek superintendents to Japan.

P&I Correspondent Recommendations:

Members should pay a great deal of attention with regard to immigration issues while visiting small ports such as Boshniakovo, Shakhtersk, Moskalvo, Ulegorsk etc.

b. Cases with local Border Control authorities.

We have had a number of cases when vessels were accused of breaching the border regulations while crossing the 12 miles territorial waters.

In all cases, the crossing of the territorial waters happened unintentionally, under force majeure circumstances such as heavy storm when vessel sought for shelter in Russian waters.

Nevertheless, from the legal point of view any such crossing without prior notification of the Russian border authorities and receiving formal approval, is a breaching of regulations.

For such cases, the Russian border authorities have developed the following standard procedure of fining the vessel for crossing the territorial waters:

First, the authorities impose fine against a person/employee, i.e. against Master of the vessel. The fine is small - from 5000 to 10000 rubbles (USD 80-160) for one type of violation.

As soon as the Master agrees to sign the documents, it is interpreted by authorities that the vessel accepted the charges, and second fine is placed few days later.

Those two fines always go in a row. Next one is fine against the company i.e. against the employer. Minimum fine in this case is between 400,000 – 800,000 Rubbles (USD 7000 - 14000).

The formal reason for making charges, is blaming the company for inadequate control of employee actions (I.e. in our case - the Master of the vessel). The inadequate control means that the company failed to give full and appropriate instructions to the Master how to act in such situations.

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Final documents issued after formal hearings specified all the above fine reasoning including the exact coordinates and time of crossing the border.

Number of territorial waters crossings in same voyage will be fined separately for each crossing at average of USD 7000 per crossing.

P&I Correspondent Recommendations:

Master is advised to log detailed records of vessel's attempts to inform the authorities that the vessel leaving/entering the 12 miles zone for safety reasons. Evidence such as voice recording along with weather data should be kept. These may help taking legal actions in order to reject the standard fines.

c. Fine payments in the Russian Federation

We encountered a number of cases when the owners were not familiar with the Russian Rubble Zone regulation and failed to pay the fine in time, causing doubling of the fine. Normally the penalty has to be paid not later than 60 days from the date of coming into legal force of the adjudication. The adjudication is sent by a letter with notification. This means that as soon as letter is delivered the sender will be notified of reception. After that the adjudication is considered to be in legal force. There are no procedures that require diplomatic offices.

In case the letter is lost for some reason, the Authority will be able to start charging additional fines against the Owner based on the documents proof that the letter was properly sent to the Owner.

The penalty for non-payment is equal to the fine. I.e. as soon as it will be clear that the Owners fail to pay in due time, the penalty is double of the sum of an unpaid administrative penalty

Russian authorities DO NOT accept payment in US dollars. The Owners shall pay in Rubbles only. The Russian banking system has no IBAN or SWIT codes and in order to make the payment in Rubbles, the sender should be Russian resident.

Rubble zone has absolutely different system of bank-client communication with specific code system that has nothing in common with Western banking system.

P&I Correspondent Recommendations:

As soon as the Owner accepts the fine and agrees to pay it, in order to avoid additional fines for breaking the due time of payment, we recommend not to wait for the official letter from the authorities to be received. The Owner can confirm that he got information on the Adjudication letter from a different source (e-mail from agent, or the owner's representative in Russia) and then the Owner can effect payment without waiting)

The only way for the Owners (who are not Russian residents) to pay the fine is to remit to the Agent the USD amount equal to the fine with instruction to pay the fine in Rubbles.

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