

**RULING OF THE MARITIME DISCIPLINARY COURT OF THE  
NETHERLANDS 12 SEPTEMBER 2018 (No. 8 OF 2018)  
IN THE CASE 2018.V1- STAVFJORD**

As petitioned by:

the Minister of Infrastructure and the Environment, now the Ministry of  
Infrastructure and Water Management,  
in The Hague,  
**petitioner,**  
authorised representative: M. Schipper,  
ILT/shipping inspector,

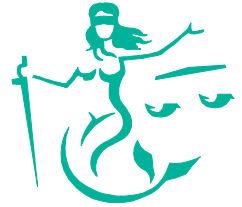
versus

C. Jr. L. C.,  
who did not appear.

**1. The course of the proceedings**

On 26 January 2018, the Maritime Disciplinary Court received a written petition for a disciplinary hearing of the case against the person concerned as the chief mate of the Dutch seagoing vessel Stavfjord from M. Schipper, inspector ILT/Shipping in Rotterdam (referred to below as the Inspector). Twelve written appendices were attached to the petition.

The Disciplinary Court sent the person concerned a letter in the English language (both by registered and ordinary mail) dated 13 February 2018 informing him of the petition, enclosing a translation of the petition and its appendices in English. The person concerned was informed of his right to file a statement of defence.



No statement of defence or any other response has been received from the person concerned.

The presiding judge stipulated that the hearing of the case will be held at 10.00 hours on 13 July 2018 at the courtroom of the Disciplinary Court in Amsterdam. The person concerned was summoned – in the English language and by both ordinary and registered mail – to appear at the hearing of the Disciplinary Court.

The hearing was held at 10.00 hours on 13 July 2018. The Inspector appeared for the petitioner. The person concerned did not appear. Leave was granted to proceed in default of appearance by the person concerned.

## **2. The petition**

The following forms the basis for the petition.

On Monday 13 November 2017 the ILT received a report that the Dutch vessel Stavfjord had run aground at the island of Nólsoy, Faeroe Islands, at around 07:10 hours ST on that date. The cause of this grounding was that the person concerned, who was at that time the duty officer, was insufficiently aware of the position of the Stavfjord.

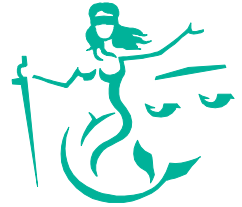
The person concerned is charged with thus acting in breach Article 4.4 of the Dutch Seafarer's Act in conjunction with Article 55a of that Act.

## **3. The position of the person concerned**

The person concerned did not make a statement about the event and did not respond to calls.

## **4. The assessment of the petition**

A. With regard to the circumstances of the accident, the petition states, among other things:



On Monday 13 November 2017 the ILT received a report that the Dutch vessel Stavfjord, belonging to Scheepvaartonderneming Stavfjord B.V. (Delfzijl) had run aground off the island of Nólsoy, Faeroe Islands, at around 07:10 hours ST on that date. The ship was underway with a cargo of gravel from Årdal and Tau in Norway to Sund on the Faroe Islands. The grounding was reported by M. A., working as DPA for the ISM manager Fønnes Shipping AS. The ship grounded in position 62°00,97N 006°41.2W. There was no pilot on board at the time of the grounding. However, there were instructions from the pilot. Despite that, the person concerned, who was the duty officer, was not sufficiently aware of his position. The resulting grounding caused a leakage of the forepeak. The Classification Society gave permission for the vessel to proceed to the repair shipyard once it had been unloaded.

B. A written declaration by the captain of Stavfjord annexed to the petition includes the following information:

‘The officer on duty advised the pilot one hour prior to arrival. Later on the ship was instructed by the pilot to head for pilot ground “Charlie” [..]. The officer on duty was acting as instructed by pilot, without realizing how close the ship was coming to Nolsø Island. (All above is told in word to the master by officer on duty)

When I entered the bridge, the first thing I heard on VHF was an additional order from pilot to turn more to port [..]. I was informed where the pilot boat [was] localized, and walked over to port side for confirmation. Next thing I observed was some white spots ahead of the ship. I then went for the radar which had a setting on 12 nm, radar used by the officer on duty was on 6 nm. I switch down the scale on the radar, run for the bridge wing and realized that the ship has a very short distance to shore. Engine full astern, and after few moments the vessel had a bottom touch. Time: 0710 Position 62°00,97 N 006°41,2W Nolsø Island. The ship without any problems went backwards away from the seabed. Instruction for tank sounding was given and followed up. Water ingress in Forepeak observed, remaining double bottom tanks, ok. [..] Divers doing inspection from 1130–1330. Dent and



cracks observed during inspection in area: lower part bulb bow, length abt 1,5–2,0 meters. [..].’

C. An email message submitted by the Inspector dated 29 January 2018 at 09.38 hours from J.J. E., Tórshavn Pilot, to the Inspector includes the following information:

‘On 13th. of November 2017 at about 05.40 hours, I came to the Harbour Office in Tórshavn. Stavfjord was in a position northeast of Nólsoy, miles away from Pilot Station Charlie where I should board. I called Stavfjord on VHF channel 12 and asked them to proceed towards Pilot boarding position Charlie and to have their pilot ladder on their port side. On board the Pilot boat, east of Tórshavn Harbour, I called Stavfjord again on VHF channel 12 and asked them to proceed towards Pilot Station Charlie. Stavfjord had slow speed so we tried to head in their direction. [..] I called Stavfjord again on VHF channel 12 and asked them to head towards the Pilot boat. When we came close to Stavfjord we could see the vessel was going astern away from Nólsoy. I went onboard and to the bridge where the Master informed me that it felt like Stavfjord had grounded on the bow before I came onboard. [..].’

D. A copy of a page of the ship's log annexed to the petition shows the position at 02.00, 04.00 and 06.00 hours. The time of the grounding was 07.10 hours; it was also noted that the ship's bulb bow touched the bottom, that the ship was able to move astern to deeper water and that a diving inspection took place from 11.30 to 13.30 hours.

E. The ECDIS screen prints attached to the petition show a different course movement of the Stavfjord in the direction of the coast/land.

F. An Interim Survey Statement of 14 November 2017, annexed to the petition, states that the forepeak of the Stavfjord was damaged by the grounding and that permission was granted to proceed to a repair shipyard.



G. An IMO crew list, signed by the captain of Stavfjord on 10 November 2017 and annexed to the petition, lists nine crew members, including the person concerned as chief mate. A copy of his valid navigation certificate has also been submitted.

## **5. The ruling of the Disciplinary Court**

The findings based on the content of the documents referred to above are as follows.

On Monday, 13 November 2017, at around 07.10 ST, the seagoing vessel Stavfjord, belonging to Scheepvaartonderneming Stavfjord B.V. (Delfzijl) grounded off the coast of Nólsoy, a part of the Faeroe Islands. The Stavfjord, with nine crew members on board, was at that time underway with a cargo of gravel from Årdal and Tau in Norway to Sund on the Faeroe Islands. The person concerned, who held the rank of chief mate, was the duty officer. He had called up a pilot and subsequently received instructions from a pilot boat to go to pilot station Charlie. His intention was to follow these instructions. However, it emerged that he was not properly aware of the position of Stavfjord. As a result, the Stavfjord was able to steer straight from the coast of Nólsoy and ground in position 62°00.97N 006°41.2W. The grounding caused a leak in the forepeak. The Classification Society gave permission for the vessel to proceed to the repair shipyard once it had been unloaded. There were no personal injuries.

It is apparent from the above that the person concerned failed to properly fulfil his duties as duty officer; in particular he failed to determine and chart the ship's position frequently enough. For that reason he lacked situational awareness. This resulted in the grounding.

In this context, the Disciplinary Board also refers to the provisions on the keeping of a navigational watch in the STCW Code. Chapter VIII of this code provides, among other things, under the heading 'Performing the navigational watch': 'During the watch the course steered, position and speed



shall be checked at sufficient frequent intervals, using any available navigational aids necessary, to ensure that the ship follows the planned course.'

The conduct of the person concerned constitutes a violation of the regulation of Article 55a of the Dutch Seafarers Act in conjunction with Section 4.4 of that Act: acting or failing to act on board as chief mate contrary to the duty of care expected of a good seaman in relation to the persons on board, the ship, the environment and shipping.

#### **6. The disciplinary measure**

The Maritime Disciplinary Court judges that the person concerned failed in his responsibilities as a ship's officer, which resulted in the grounding. The person concerned did not act as befits a responsible duty officer. This placed the safety of the people on board, the ship and the environment in jeopardy. In view of the seriousness of the negligence a suspension of the navigation licence for the duration mentioned below is appropriate. Taking into account (i) that the consequences of the negligence in this case were limited to some material damage to the vessel and (ii) that the shipping company (as a result of the incident) has apparently parted company with the person concerned, the Disciplinary Court sees good reason to rule that the suspension of the navigation licence is to be imposed on a fully conditional basis. This sanction is in accordance with the Inspector's demand, which was communicated to the person concerned beforehand.

#### **7. The decision**

The Disciplinary Court:

- declares the objection against the person concerned as stated under point 5 to be well-founded;



- suspends the navigation licence of the person concerned for a period of 1 (one) month;
- stipulates that this suspension will not be imposed unless the Disciplinary Court stipulates otherwise in a subsequent ruling based on the fact that the person concerned has once again behaved contrary to his duty of care as a good seaman in respect of the people on board, the vessel, its cargo, the environment or shipping prior to the end of a probationary period, which the Disciplinary Court hereby sets at two years;
- stipulates that the probationary period of the suspension shall commence on the date six weeks following the date of this ruling being forwarded.

Duly delivered by J.M. van der Klooster, LL.M., deputy presiding judge, E.R. Ballieux and T.S. de Groot, members, in the presence of E.H.G. Kleingeld, LL.M., as secretary and pronounced by A.N. van Zelm van Eldik, LL.M., in public session on 12 September 2018.

J.M. van der Klooster  
presiding judge

E.H.G. Kleingeld, LL.M  
secretary

A.N. van Zelm van Eldik  
presiding judge

E.H.G. Kleingeld  
secretary

An appeal against this ruling can be lodged within six weeks of the date of forwarding with the Dutch Trade and Industry Appeals Tribunal ('College van Beroep voor het Bedrijfsleven'), Prins Clauslaan 60, 2595 AJ The Hague, P.O. Box 20021, 2500 EA The Hague, the Netherlands.