



**RULING OF THE MARITIME DISCIPLINARY COURT OF THE NETHERLANDS OF
2 JULY 2021 (NO. 8 OF 2021) IN THE CASE OF 2020.V10-LADY HANNEKE**

As petitioned by:

the Minister of Infrastructure and Water Management
in The Hague,
petitioner,
authorised representative: K. van der Wall,
Senior Inspector ILT/Shipping

versus

Y. K.,
the person concerned.

1. The course of the proceedings

On 27 October 2020, the Disciplinary Court received a written request for disciplinary action from the petitioner's proxy (referred to below as the Inspector), directed against the person concerned as the first mate of the Dutch vessel Lady Hanneke. Sixteen annexes were attached to the petition.

The Disciplinary Court has notified the person concerned of the petition by letter (sent both by registered and ordinary mail), enclosing a copy of the petition with annexes, and has informed the person concerned of the right of appeal.

The petitioner did not make use of this option.

The presiding judge has ruled that the oral hearing of the case will take place on 21 May 2021 at 11:00.

The Inspector and the person concerned were summoned to appear at the hearing of the Disciplinary Court.



The hearing was held at 11.00 hours on 21 May 2021. The Inspector appeared on behalf of the applicant. The person concerned attended the hearing via a video link from Kherson. He was heard with the assistance of an interpreter.

2. The accident – brief description

The petition for a disciplinary hearing was filed as a result of the accident described below.

On 24 June 2020, the Dutch vessel Lady Hanneke ran aground in Danish waters on Boels Plade in position 56°37.6N 010°28.3E. The person concerned was the officer of the watch at that time. The vessel freed itself under its own power after the grounding and was detained by the Danish Maritime Authority. The Danish authorities reported the grounding via SafeSeaNet. The shipping company reported the accident on 25 June 2020 at 09:02 a.m. to ILT.

3. The Inspector's objection

3.1 The Inspector accuses the person concerned of not having checked the route of the journey for passability, which was his responsibility as officer of the watch. For that part of the voyage he was jointly responsible for the course to be followed. He did not check the Ecdis settings, at least for the safety contour, and did not enter the correct values in the Ecdis.

3.2 The Inspector cites the following as regulations that have not been complied with:

- a. STCW Code Part A, Chapter VIII, Section A-VII/2, Part 2: Voyage planning (6);
- b. STCW Code Part A, Chapter VIII, Section A-VIII/2, Part 4: Principles to be observed in keeping a navigation at watch (10, 14);



- c. Colreg, Recommendation, Section 2: Operational guidance for officers in charge of an navigational watch (14).

4. The position of the person concerned

During the hearing of the Disciplinary Board the person concerned stated that he was indeed on watch as an officer on the Lady Hanneke during the grounding. He sees the grounding as human error. He knew that there are shallows off Denmark. That is why he constantly monitored the echo sounder. More or less by way of an excuse, he pointed out that the shallows in the vicinity of the grounding had not been clearly pointed out by means of a buoy or some other kind of sign. At the same time he admits that (also) he paid insufficient attention to the settings of the Ecdis, with which depths could be observed. The shallow contour was now set to 2 metres, which is a depth that the Lady Hanneke was not allowed to/could not pass.

5. The assessment of the petition

A. Attached to the documents is a voyage plan dated 15 June 2020, signed by the master. It was stated that the Lady Hanneke would leave Arkhangelsk (Russia) for Randers (Denmark) on 16 June 2020 with a cargo of wood pellets. At the time of departure from Arkhangelsk, the ship's maximum draught according to the voyage plan was 5.90 metres. On board of the Lady Hanneke, use was made of Ecdis equipment (brand: Transas). The waypoint list (attached to the voyage plan) lacks information on draught, squat and UKC.

B. At the hearing of the Disciplinary Court, the person concerned confirmed that he was the officer of the watch during the grounding. He had failed to thoroughly examine the voyage planning. He acknowledges that insufficient attention was paid to the settings of the Ecdis. The shallow contour was set to 2 metres, while the draught on departure (according to the voyage plan)



was max. 5.9 metres. Just before the grounding he had reduced the speed of the ship to (just over) 7 knots. The ship was awaiting the arrival of the pilot.

C. The documents include a master's statement signed by the master. It states that the grounding on 24 June 2020 took place at 17:20 UTC/19:20 ship's time in the position Lat.: 56°-37.6N Long.: 010°-28.3E at a speed of 7.1 STW / 7.3 SOG. It was calm (summer) weather. The wind was south 2-3.

D. Shortly after the grounding – which took place at the location indicated by the Inspector on Boels Plade – a photograph was taken of the Ecdis screen. This photo, enclosed with the documents, shows under shallow contour: 2m. Also attached is a screen shot of the Ecdis from the time of the grounding. That print shows that the Lady Hanneke sailed with a straight course over the shallow water of Boels Plade, heading for Randers. The water depth at the location of the grounding was noted: 5.0.

E. Also submitted is a Final Attendance Report of an underwater inspection of the vessel on 25 June 2020. The report states: *'No hull deformations found during underwater examination. The bottom plate to be specially examined and dealt with as necessary at next Drydocking.'*

6. The ruling of the Disciplinary Court

6.1 Based on (i) the contents of the documents and statements mentioned above and (ii) what was further presented and discussed at the hearing, the following has become evident in this case.

On 24 June 2020 at approximately 19:20 a.m. LT (17:20 a.m. UTC), the Dutch freighter m/v Lady Hanneke (Imo number 9828352) – on her journey from Arkhangelsk (Russia) to Randers (Denmark) – ran aground on the shallow side of Boels Plade off the Danish coast. On departure from Arkhangelsk the draft of the Lady Hanneke was (max) 5.9 meters according to the voyage plan. The master's statement of 24 June 2020 mentions as



draft: fore 5.25 m and aft 5.75 m. The water depth at the location of the grounding was 5.0 m.

At the time of the grounding the person concerned was the officer on watch as first mate. He was sailing according to a pre-planned route that went over the shallow area of Boels Plade. Although he had not planned the route himself – the second officer had done that – he failed to check the passability/safety of the part of the route he was to cover. More specifically, he paid no attention to the settings of the Ecdis. It remains unclear whether, and if so, how the Ecdis settings had been configured for the new voyage. It is also unclear whether the pilot guides for the planned route were consulted; these pilot guides warn, among other things, of the dangers of entering ports. In the Ecdis the shallow contour was set to 2 metres, a depth that Lady Hanneke could not pass. If, for example, 6 metres had been entered (slightly more than the draught at departure) rather than 2 metres, the Boels Plade would have been given a different colour¹, making it clear at a glance that it was unsafe to let the route run over that area.

At the time of the grounding, the Lady Hanneke (carrying wood pellets) was sailing at a speed of approximately 7.5 knots. After the grounding, the ship freed itself under its own power. A dive inspection the following day found no holes or cracks in the hull, only some damage to the coating.

6.2 The Disciplinary Court is of the opinion that the person concerned, in his capacity as officer of the watch, did not exercise sufficient care when checking whether the part of the planned route to be covered by him, in terms of draught, could be sailed safely. If he had set off the data concerning the draught of the Lady Hanneke against the depths on the planned route (over Boels Plade) it should have been clear to him that, without further provisions, a grounding was inevitable or at least there was a considerable chance of this happening. A grounding such as this is not without risks. Even

¹ *In the pronounced version of the judgment, the word 'green' in brackets should read 'dark blue', but can also be disregarded.*



with a sandy bottom, uncharted hard objects such as stones, anchors, lost cargo can cause holes/cracks in the hull, with all the consequences that entails. It is therefore important to be alert to preventing a grounding before and during the voyage. Since it was known that there are shallow waters off Denmark, that alertness should certainly not have been absent. The fact that there were no buoys or beacons to warn of the shallows is by no means a reason to assume that there were therefore no shallows; the absence of such warning signals does not detract from the watch officer's own responsibility to check whether the route followed is deep enough for the ship.

6.3 His negligence on this point constitutes a violation of the regulation of Section 55a of the Dutch Seafarers Act in conjunction with Section 4.4 of that Act: acting or failing to act on board as a (duty) ship's officer contrary to the duty of care expected of good seaman in relation to the persons on board, the ship, its cargo, the environment and shipping. For a number of more specific provisions that have not been (sufficiently) complied with, reference is made to the list in section 3.2.

7. The disciplinary measure

The Disciplinary Court judges that the person concerned seriously failed in his responsibilities as a watch officer, which resulted in the grounding. In view of the seriousness of the negligence, a suspension of the navigation licence for the duration mentioned below is appropriate. Part of the measure will be imposed conditionally, as demanded by the Inspector. In determining this measure, account was taken, in the favour of the person concerned, of the fact that the consequences of the error had remained limited (to some material damage to the ship) and that the person concerned appears to have been made aware of the fact that and how he failed in his task as officer of the watch and has also learnt from this. The conditional part of the measure is also intended to encourage greater vigilance in the future. This measure is the same as that imposed on the master and the second mate.



8. Some recommendations

This grounding gives the Disciplinary Court reason to make the following recommendations:

1. There should be an explicit instruction that with every voyage, the Ecdis settings should be (i) adjusted to the new/current voyage and (ii) checked.
2. It is also recommended that awareness be raised by consulting the pilot guides that have been issued worldwide for many areas and explicitly warning of the dangers of entering ports.

9. The decision

The Disciplinary Court,

- rules that the complaint against the person concerned is well-founded;
- suspends the navigation licence of the person concerned for a period of six (6) weeks;
- stipulates that of this suspension, a period of two (2) weeks 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., presiding judge, H. van der Laan, T.W. Kanders, members, in the presence of E.M. Dooting, LL.M., as secretary, and pronounced by J.M. van der Klooster, LL.M., in public session on 02 July 2021.

J.M. van der Klooster
Presiding judge

E.M. Dooting
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.