



**RULING OF THE MARITIME DISCIPLINARY COURT OF THE NETHERLANDS OF
2 JULY 2021 (NO. 9 OF 2021) IN THE CASE OF 2020.V11-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

V. 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 second 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. At that moment the Lady Hanneke was sailing a route that was planned by the person concerned (in his capacity as second mate) within the framework of the voyage planning. 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 to ILT at 09:02 on 25 June 2020.

3. The Inspector's objection

3.1 The Inspector's objection to the person concerned as second mate consists of the following elements:

- (I) The person concerned was responsible for drawing up the voyage planning. He did not do this with sufficient precision.
- (II) The person concerned failed to set the correct values in the Ecdis for the safety contour;
- (III) The person concerned failed to check the voyage plan with sufficient precision together with the master.

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



- a. Resolution MSC.232(82) Revised performance standards for Ecdis (11.2, 11.3.4);
- b. IMO resolution A.893 (21) Guidelines for voyage planning (2.1, 3.2, 3.4);
- c. STCW Code Part A, Chapter VIII, Section A-VII/2, Part 2: Voyage planning (3).

4. The position of the person concerned

At the hearing of the Disciplinary Court the person concerned stated that he, as second mate, was responsible for the voyage planning for the voyage of the Lady Hanneke from Arkhangelsk (Russia) to Randers (Denmark) which started on 16 June 2020. This was not the first time he had done this. He was also aware that there are shallow waters off the coast of Denmark. The fact that things went wrong on this occasion – because the route ran over the shallow area of Boels Plade – is, in his opinion, due to the fact that he overlooked certain matters. He is referring to data that had already been entered in the Ecdis. He learned from the incident. Among other things, he needs to zoom in a bit further on the digital charts to be able to observe the depths better.

He says he has also consulted the book 'Baltic pilot formula 1' and has seen that it mentions shallows off Randers Harbour. He compared that to what was shown on the charts. These charts indicated a depth of 7 metres or more, according to the person concerned.

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 – in his capacity as second mate on board the Lady Hanneke – had attended to the voyage preparations for the trip from Arkhangelsk (Russia) to Randers (Denmark). Together with the master, he checked the voyage preparations he had made prior to the voyage. This overlooked the fact that the planned route ran across the Boels Plade shallow area. He also failed to notice that the Ecdis was not properly configured. The shallow contour was set to 2 metres, while the draught on departure (according to the voyage plan) was max. 5.9 metres.

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.

The person concerned was an officer on board the Lady Hanneke. In his position as second mate he attended to the voyage planning and checked it together with the master. This missed the fact that the planned route ran across the Boels Plade shallow. Nor was it noticed that the Ecdis was set incorrectly; The shallow contour was set to 2 metres, while the draught on departure (according to the voyage plan) was max. 5.9 metres. It remains unclear whether, and if so, how the Ecdis settings had been configured for the new voyage. Consulting the pilot guide for the area in question would have caused the shallow depth to be noticed. The person in question claims that he consulted that guide, but it has remained unclear why this route was chosen after all.

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.

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



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 second mate of the Lady Hanneke, was insufficiently accurate in preparing the voyage/planning the route and also in verifying, together with the master, the voyage/planning of the route. 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 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 during the voyage planning. Especially since it was known that there are shallow waters off Denmark, it would have been appropriate to pay extra attention to the route to be followed and the Ecdis settings. Even if the charts consulted did not show any buoys or beacons (as a warning for the shallows), this was not a reason to assume that there were no shallows; the absence of these warning symbols does not detract from the responsibility of the voyage planner to check, on the basis of the known depth data, whether the route followed is deep enough for the ship.

6.3 The negligence of the person concerned 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 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 has seriously failed in his responsibility as a ship's officer. That failure led to the grounding of the Lady Hanneke. 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 been limited (to some material damage to the ship) and that the person concerned seems to have understood that and why he had failed in his duties as second mate and had learned a lesson 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 first mate on watch.

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.

