



**RULING OF THE MARITIME DISCIPLINARY COURT OF THE NETHERLANDS OF
2 DECEMBER 2022 (NO. 4 OF 2022) IN THE CASE 2022.V3–SCHOTSMAN**

As petitioned by:

the Minister of Infrastructure and Water Management
in The Hague,
petitioner,
authorised representative: K. van der Wall
senior inspector Human Environment and Transport Inspectorate
(ILT)/Shipping in Zwijndrecht

versus

B. S.,
the person concerned,
counsel: M.M. van Leeuwen, LL.M.

1. The course of the proceedings

On 10 March 2022, the Disciplinary Court received a written request for disciplinary proceedings from the aforementioned K. van der Wall against the person concerned as captain of the vessel Schotsman, sailing under the Dutch flag. Attached to the petition were 32 annexes and a video.

On 24 May 2022, a statement of defence was received from the person concerned. The inspector responded to the defence on 9 June 2022. The person concerned filed a rejoinder to the reply on 7 July 2022. On 6 October 2022, the inspector sent an email from the Directorate-General for Public Works and Water Management (RWS) to the Disciplinary Court and to counsel for the person concerned.



The presiding judge stipulated that the oral hearing of the case will be held at 11.00 hours on 7 October 2022 at the offices of the Disciplinary Court in Amsterdam.

The court hearing was held on 7 October 2022. Inspector K. van der Wall appeared for the petitioner, accompanied by her colleague, inspector B.A.C. van Geest.

The person concerned appeared at the hearing, represented by counsel.

2. Grounds

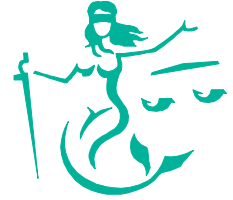
The petition for a disciplinary hearing was filed in response to the Incident described below.

On 16 February 2021, around 11am LT, the trailing suction hopper dredger Schotsman, with a draught of 6.40m or 6.05m (draught as mentioned in first report vs draught during visit on board), ran aground on the Westerschelde near buoy VH-2, slightly north of Breskens. After the vessel ran aground, it was (partially) unloaded into the barge Marlea, reducing the draught and releasing the vessel at 11.55am. An employee of RWS was on board, but was unable to conduct an investigation into possible damage. This RWS employee told the person concerned that he should report this grounding to the ILT and Classification Society.

The Schotsman (IMO number 8843836) is a Dutch trailing suction hopper dredger owned by Zeezand II B.V. in Terneuzen. Built in 1983, the vessel is 90 metres long and 12 metres wide and has a cargo capacity of 2150 tonnes. At the time of the accident, the crew consisted of six people in total.

3. The inspector's objections

According to the Inspector, the person concerned acted as captain contrary to the duty of care that he, as a good seaman, should observe with regard to



the persons on board, the ship, the cargo, the environment and shipping traffic (Section 55a of the Seafarers Act).

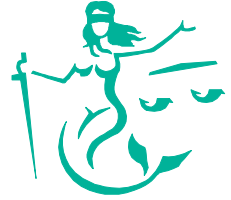
More specifically:

1. the person concerned planned the route through a (navigation) area for which, on the navigation charts on board, it was not clear whether the water depth was more than the current draught of the Schotsman;
2. the person concerned did not include in the voyage plan, other than for the Hoofdplaat, any note on draught and UKC (Under Keel Clearance), i.e. even at the location of buoy VH-2;
3. The person concerned did not immediately report the grounding to ILT and the Classification Society, despite this being pointed out by an employee of RWS, who boarded the Schotsman immediately after the grounding;
4. the person concerned did not even report the grounding to his shipowner/the DPA;
5. the person concerned noted in the report to the Classification Society that the grounding took place at low speed, whereas film footage from Marine Traffic shows that the speed was between 8 and 9 knots and the Classification Society was therefore misinformed;
6. the person concerned continued to make voyages with the vessel after the grounding, without informing the necessary authorities (ILT and the Classification Society);
7. the person concerned navigated with the Timezero map plotter, even though it is not an officially approved navigation device.

The Inspector cites as the regulations not complied with:

Commercial Code, second book, third title

Article 343(1): The captain is obliged to act strictly in conformity with the usual rules and the existing regulations to secure the seaworthiness and safety of the ship, the safety of those onboard and the goods on board.



SOLAS Chapter V regulation 34: Safe navigation and avoidance of dangerous situations

1. Prior to proceeding to sea, the captain shall ensure that the intended voyage has been planned using the appropriate nautical charts and nautical publications for the area concerned, taking into account the guidelines and recommendations developed by the Organization.

IMO resolution A.893(21) Guidelines for voyage planning

2. Appraisal

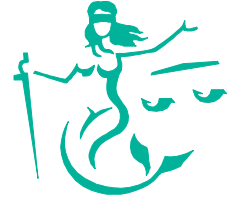
2.1 All information relevant to the contemplated voyage or passage should be considered. The following items should be taken into account in voyage and passage planning:

- .1 the condition and state of the vessel, its stability, and its equipment; any operational limitations; its permissible draught at sea in fairways and in ports; its manoeuvring data, including any restrictions;
- .5 appropriate scale, accurate and up-to-date charts to be used for the intended voyage or passage, as well as any relevant permanent or temporary notices to mariners and existing radio navigational warnings;

3 Planning

3.2 The detailed voyage or passage plan should include the following factors:

- .1 The plotting of the intended route or track of the voyage or passage on appropriate scale charts etc.
- .2 The main elements to ensure safety of life at sea, safety and efficiency of navigation, and protection of the marine environment during the intended voyage or passage; such elements should include, but not be limited to:
 - 1. safe speed, having regard to the proximity of navigational hazards along the intended route or track, the manoeuvring characteristics of the vessel and its draught in relation to the available water depth;
 - 2. necessary speed alterations en route, e.g., where there may be limitations because of night passage, tidal restrictions, or



allowance for the increase of draught due to squat and heel effect when turning;

3. minimum clearance required under the keel in critical areas with restricted water depth;

3.4 Each voyage or passage plan as well as the details of the plan, should be approved by the ships' captain prior to the commencement of the voyage or passage.

STCW Code Part A, Chapter VIII, Section A-VII/2, Part 2: Voyage planning

3 The intended voyage shall be planned in advance, taking into consideration all pertinent information, and any course laid down shall be checked before the voyage commences.

5 Prior to each voyage, the captain of every ship shall ensure that the intended route from the port of departure to the first port of call is planned using adequate and appropriate charts and other nautical publications necessary for the intended voyage, containing accurate, complete and up-to-date information regarding those navigational limitations and hazards which are of a permanent or predictable nature and which are relevant to the safe navigation of the ship.

Merchant Shipping Act

Article 9(2): (...) He [the captain] is also obliged, upon entering a Dutch port (...) to notify the Shipping Inspectorate of the damage and accidents occurring during the past voyage.

Ships Decree

Article 67(1): If a ship has sustained damage or has been involved in an incident justifying a suspicion that damage or a defect may have been caused that could affect the ship's safety, the captain must inform the Head of the Shipping Inspectorate of this as soon as possible. If the damage or incident concerns the hull or the machinery and electrical installation, the captain

shall also inform the authority referred to in Article 37 (Classification Society).

The demand is to impose a suspension of the navigation licence for a period of 8 weeks, 4 of which are conditionally.

4. The position of the person concerned

According to the person concerned, the incident was of little consequence and the objections should be declared unfounded; alternatively, the objections should be upheld without imposing a sanction.

The person concerned has split the defence into the objections regarding navigation (objections 1, 2, and 7) and the objections regarding notifications (objections 3 to 6).

the navigation

The person concerned does not dispute that he planned the route through a (navigational) area for which, on the navigational charts on board, it was not clear whether the water depth was more than the current draught of the Schotsman (the first objection). However, he argues that the exact depth on site could not be ascertained from hard data and that he was entitled to rely on his years of experience. There was possibly an incorrectly placed sand deposit at the site (hump). According to the person concerned, for a ship that almost always sails in relatively shallow waters, it cannot be ruled out that a route may occasionally be chosen that, in hindsight, was unwise at the tide position in question. This constitutes an error, but not one that is sufficient for a disciplinary charge.

The person concerned does not dispute that, except for the Hoofdplaat, the voyage plan did not include a note on the draught and the UKC (Under Keel Clearance), i.e. even at buoy VH-2 (the second objection). However, the person concerned argues that he is not legally obliged to do so.

Regarding the non-approved Timezero chart plotter (the seventh objection), the person concerned argues that this does not mean that the chart plotter should not be used to navigate with.



the notifications

The person concerned acknowledges that he did not report the grounding directly to the ILT and the Classification Society, despite being told to do so by an employee of RWS (the third objection). However, the person concerned argues that the objection does not mention a deadline by which the grounding should be reported.

The accused also acknowledges that he did not immediately report the grounding to the shipowner/DPA and that he continued to make voyages with the vessel after the grounding, without informing the necessary authorities (ILT and classification society) (the fourth and sixth objections). However, the person concerned argues that the shipowner was informed within 24 hours and that providing information later is not a matter of good seamanship. Since there was no damage, it did not make sense to dock and the Classification Society had confirmed (afterwards) that the inspection could await regular docking.

The person concerned disputes that he misinformed the Classification Society (the fifth objection). Not the person concerned, but the shipowner passed on the speed at which the ship was sailing to the Classification Society.

5. The ruling of the Disciplinary Court

The evidence

- A. The statement of the person concerned at the hearing, in so far as it states: "It is true that I arrived at the Vlissingen roadstead at ten minutes to eleven on 16 February 2021. A southerly course was steered, towards Breskens, taking into account the ebbing tide. Suddenly, I felt the ship grounding. I quickly took the power off and throttled down. While we were lying there, I didn't do much as it was in sandy bottom. I left it for a while. The RWS 78 had also just arrived there and came towards us. I cruise there so often and know the cruising area. I determined from experience that it was safe to sail through that area. I have sailed there thousands of times. I know there



are many shallows and that it is not a main waterway, but a subsidiary waterway. I take into account the water level there. I know there is a threshold.

How is it possible that after I unloaded 300 cubic metres and activated the propeller, I refloated and could simply continue my voyage? That meant I was no longer pushing the vessel in shallows. If I had come into shallow water, I would not have refloated so fast. There was just a hump of sand there that had been deposited incorrectly, which I just sailed into. I was immediately grounded.

According to the chart depths, you could sail there. They are the chart depths on Timezero's detailed sea chart that I have here. You say the paper map says it is between 5 and 10 m deep there. It may not be an official chart, but through all these rounds I have reduced a whole list of different draughts and water levels to this draught. At some point, you gain an image. You ask the water level, you know the draught. Then you know it can be done with the draught of the ship. It's practical experience you build up by doing a lot there.

At the time, dredging operations further up the Western Scheldt were dumping a very large amount of sand with a strong downstream current. They were not small ships dumping there. Has there been any investigation into the deposits? There is also a shifting piece of sandbar. Later, the buoy was placed 400 metres west. There must have been a reason for that.

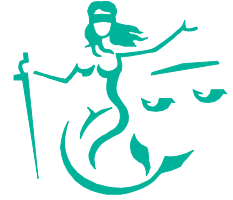
With regard to the second objection, it is true that I did not include a note on draught and UKC in the voyage plan. I happen to know that because I spend a lot of time in shallow waters. It is not really specified in the ISM or in a guideline what the minimum UKC should be. Regarding IMO resolution A893 (Guidelines for Voyage Planning), I personally think that in the dredging world, for certain operations, it is neither realistic nor possible to lay this down in a guideline. We are close to the beach and inside waterways.



Regarding the third objection, it is true that the Timezero map plotter is not an approved navigation device. We sail with this chartplotter. The equipment and map are always on weekly updated standby as a backup.

It is a tool to make your work easier. Official or not, it is a very detailed map that is updated weekly. The Timezero supplier, MaxSea, sends updates by email. They arrive in your mailbox on Friday and then you download them and can install them yourself. It had been updated the Friday before the accident. The Timezero update is carried out by me or the mate. The old buoys are taken off and the change of buoys is added. This provides a traffic image of the whole situation. The depth in the Timezero at the relevant site is anywhere from 6.80, 6.90, 6.50, always around 6 metres. This happens to be correct. I often approached in high tide and knew the draught of my ship. I asked for the water level and then I came across the shallow part and took the shallowest point. That way, next time I knew what was below the surface. That's how I made the whole journey. It's a convenient thing to have. Relative to the map, it is just right. On the Timezero there are AIS and GPS, but no depths for adding detail. The main purpose of Timezero is that it lists and delineates sand mining areas. It is a secondary navigation tool. You look on it and see your position, but the visual image and the map behind it makes the overall navigation image. The paper map is not that comprehensive, with few depths on it. A copy of the Timezero sea chart is what underlies my counsel's pleading. The maps are intended for dredging. You see the other ships sailing on it. It is an aid to radars. But because I know the cruising area so well – I have been coming there for years and visibility was good (the weather was beautiful with sunshine) – I did not use any chart and sailed visually on the buoys.

If I had not trusted it, I would not have sailed full throttle over a hump anyway. In that case I would have sailed very slowly beforehand and not at 7 knots in a current at full speed. You ask if I am now saying



that I sailed at full speed there. I answer that at one point I was at a point where there was no going back.

At the time of grounding, the draught was 6m 05. We have depth measurements in the wheelhouse. The sensor is relatively the calmest, it does go off every time while charging. The sensor reads 6m 40 when lying at your dredge mark. We check that regularly. I always factor in 6m 40, which is 6m 05 dredge mark. Unfortunately, I mentioned 6m 40 in the report, but that is just 6m 05 dredge mark. After the accident, I continued sailing and we came to anchor. After that I loaded the last vessel and took off its tank covers from the double bottoms and we used a light to see if we could see water (which would indicate leakage) and looked at the forepeak. No one has been in the double-bottoms, as there would have to be ventilation first. They cannot be opened every day. They were left open during the trip and then they were looked into. After lying open for 24 hours, it was carefully checked to see if there was a dent or something like that, but nothing was found. I continued to make trips in the meantime.

I continued to make trips after grounding, without informing the office, the Classification Society and the ILT itself. I should have. I made a mistake here. I had phone coverage and I could do it. It had not behaved entirely correctly towards the office, because when they received the notification from the ILT on Thursday, they did not know anything about it. I did not report it because it was not a rocky bottom but a sandy bottom, the ship was built very robustly and I knew anyway that nothing was wrong. I may have been a bit nonchalant about it because I had inspected the tank myself. That was with a searchlight. No one has been in the tank. The shipping company's own regulations also stated that I should have reported it. It is true that an RWS employee on board told me to report the grounding."



- B. The captain's statement dated 18 February 2021 (Annex 10 to the petition): "We left 16-2-21 time 05:25 (VH) via Oostgat to the Steenbank. Started loading at 07:05 stopped loading at 08:50. Departed from Steenbank to VH via Oostgat with a draught of 6.4m. Arrived at Vlissingen roadstead around 10:50 and set course for Breskens. The water level at the time was low 3.7dm. About 400mtr WNW of buoy VH 2, I ran aground. Chart depth to ground run is 6.7mtr that is anywhere between 6/7m there with the VH2."
- C. The email dated 16 February 2021 from "Vessel rws78" (Annex 5 to the petition) in which Dave van Vliet of the RWS writes to GNA as follows:
- "I went on board the Schotsman and spoke to the skipper (B. S.). He thinks the depths are no longer quite right there at buoy vh 2. By the time I boarded the boat, some sand had already been pumped over to the Marlea and the Schotsman was coming up fast. Told the skipper to send a report to IL and T stating his class and what happened. My further investigation for damage or leakage was limited. I did not manage to look into the double bottoms and cofferdams. I did still sail along until it anchored off the vh 7. On the way there, I did not notice and or see anything special."
- D. The person concerned's responses and refusal to answer additional questions from the inspector (Annex 24 to the application; responses are in italics):
1. Who was the officer of the watch during the grounding?
Officer of the watch was B. S.
 2. Who had made the voyage plan? *The voyage plan is done by the bridge officers*
 3. Is it standard procedure on board the Schotsman to check voyage plans? If so, by whom should it be done? *The trip in question is made many hundreds of times a year.*



4. * I see it says on the voyage plan that it has been approved by 2 captains, yourself and Mr d. J. Is it true that only you signed the voyage plan?
5. When was this voyage plan made? *This is an ongoing voyage plan that is checked monthly, given the number of times this trip is taken.*
6. In the voyage plan I do not see any water depths/squat/UKC data at the waypoints. There is a general note that the UKC is less than 1.5m when loaded. Is the UKC data held somewhere else? *he UKC are not kept in any other place.*
7. If so, can you send me a copy of it?
8. * In the captain's statement, you write that the chart depth at the site of the grounding was 6.70m. How did you know that? Can you back that up with 'evidence'?

E. ILT's report dated 3 January 2022 of the visit on board the ship on 23 December 2021 (Annex 28 to the petition), in so far as it contains:

"(...) Subject 20220103 report visit to board Schotsman

Visit date and time 23 December 2021 13:00

Present Mr. B. S. (captain of the Schotsman)

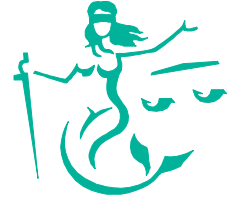
Mr B. van Geest (ILT inspector)

Ms K. van der Wall (ILT inspector)

(...)

Draught and location

During the grounding, the sensors indicated an average draught of 6.4m. However, this is not the real depth according to Mr. B. S. This is because there is an error in the value indicated by the sensors. A sensor draught of 6.40m corresponds to the maximum dredging draught, which is 6.05m. The captain's declaration, as made on 18 February 2021, should also be seen in that light.



Navigation aids

Navigation is conducted using paper sea charts. Regarding 'Notices to Mariners', these are well maintained. In response to an earlier question on the part of ILT as to whether this is the only means of navigation, the answer was that there is no ECDIS on board. During this visit, it became clear that a Timezero chart plotter was being used. For this purpose they receive weekly updates from the DE Maritime company. The Timezero charts provide more detail on, for example, water depths (see picture 1) than paper sea charts.

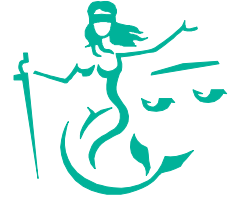
Depth lines of 5 and 10 metres (in the vicinity of the grounding area) are drawn on the paper sea chart. Hardly any additional water depths are shown in this area. On the chart of the chart plotter, depth lines of 6 and 8 metres are displayed in addition to the 5-metre and 10-metre depth lines. Various water depths are also plotted. However, the chartplotter is not an official navigation tool. It has a sticker on it that reads: 'For training only'. When asked, Mr B. S. replied that this was on the instructions of the Classification Society.

Voyage Planning

The trip is made several times a day and several days a week. No new voyage plan is made for every trip. There are standard voyage plans that depend on the suction compartment (loading point) and unloading point. Each standard voyage plan has its own number, which is also referred to in the ship's logbook. These standard voyage plans are made by the bridge officers and are reviewed about once a month. The water levels are however obtained for each individual voyage.

Under keel clearance (UKC)

There is no minimum UKC prescribed by the shipowner. The captain indicates that the absolute minimum UKC is about 0.5 m. This is only possible when speed is also significantly reduced, in connection with



squat. Just before grounding, the ship had a speed of about 6 to 7 knots.

Grounding, notification to ILT and Class

The captain had not expected to run aground. As the tide was still ebbing and there was a Directorate-General for Public Works and Water Management vessel (RWS 78) nearby, the captain asked via Channel 21 if unloading could take place at the grounding site in the barge, which was also nearby. This was allowed. A crew member of the RWS 78 boarded the Schotsman to check the situation. He told the captain that he had to report the grounding to ILT and the Classification Society. At that point, they were already unloading and the Schotsman came off quite quickly. The RWS employee did not check whether there was an inflow of outside water.

He remained on board for a short while and then disembarked again. Notification of grounding was received by ILT via RWS on 16 February 2021.

In the following days, nothing was heard through the shipowner about the grounding. On 18 February 2021, an ILT colleague called the shipowner. The shipowner asked the captain to prepare a captain's statement. This he did on 18 February 2021. The shipowner also filed a report with the Classification Society on February 18 about the grounding.

On board, I asked the captain whether he himself had reported the grounding to the shipowner. He replied to me that he had not. It happens more frequently that they are lightly grounded. The vessel is usually freed in no time and no one is informed about it. This time they were unlucky that an RWS vessel was nearby.

In the report to the Classification Society, the shipowner writes, among other things, that the grounding took place at low speed. No leakage or damage was established by the crew. The ship was originally built under ice class. Therefore, the shipowner proposed to inspect the surface at the next scheduled docking, in mid-2021.

The Classification Society accepted that."

- F. The shipowner's Safety Management Manual (Annex 30 to the petition) which states (annex 8.1N) that in case of grounding when the vessel is refloated, the person concerned must report to the DPA and authorities.

Findings:

with regard to the fifth objection

The shipowner informed the Classification Society that the grounding took place at low speed. There is no evidence that the person concerned is guilty of this. The objection is therefore unfounded.

regarding the seventh objection

It is not unseamanlike to use all available resources during navigation. All resources available for (supporting) navigation should be used. The Timezero chart plotter is one of these (auxiliary) tools. However, Timezero is not approved as a primary navigation tool. There is no evidence that the person concerned navigated exclusively with Timezero. Furthermore, it remains unclear why Timezero is not approved. The objection is unfounded.

with regard to the first objection

Based on the content of the evidence presented above, the evidence in this case shows (with a sufficient degree of certainty) that the route was planned through a (navigation) area for which, on the navigation charts on board, it was not clear whether the water depth was sufficient to navigate safely with the current draught of the Schotsman.

This is unseamanlike. The position of the grounding (which is under discussion) is irrelevant. In fact, it is certain that the water depth indicated on the paper nautical chart was between 5 and 10 metres in all these cases, while the ship had a draught of more than 6 metres. The water level at the time of grounding was about 4 decimetres, still sinking to 3 decimetres. The person concerned also stated that he knew that there are many shallows at



the site. Furthermore, the person concerned was aware that sand was being deposited in the shipping area and wrote down the soundings for himself, but did not have the soundings for the day of the grounding. The person concerned should therefore have asked for a current water level in shallow waters outside the fairway for this very sailing area to know whether the water depth was sufficient or should have waited for higher water or taken a different sailing route. Instead, the person concerned sailed mainly by feel and experience, at a speed of around 6 to 7 knots over ground, at least from 10 to 11 knots in a current. The objection is therefore well-founded.

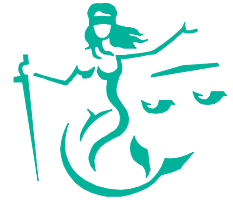
with regard to the second objection

Based on the content of the evidence presented above, the evidence in this case shows (with a sufficient degree of certainty) that, except for the Hoofdplaat, the voyage plan did not include a note on draught and UKC (Under Keel Clearance). This is not the case at the site of buoy VH-2 either. The voyage plan had not been updated in years. Making a voyage plan means setting an overall course, which has been checked to ensure safe sailing within certain margins – predetermined in the voyage plan. Voyage plans should include draughts, UKC, water levels and chart depths. None of this was the case. Contrary to the claim of the person concerned, noting this is indeed required by IMO Resolution A.893(21) under 3.2 (see above).

Furthermore, it may be correct that this requirement is not easily enforceable during the dredging itself, but that was not what the Schotsman was doing during the incident. The preparation for the trip was flawed. This is unseamanlike. The objection is therefore well-founded.

regarding the third, fourth and sixth objections

Based on the contents of the evidence presented above, this case shows (with a sufficient degree of certainty) that the grounding was not immediately reported to the ILT and the Classification Society, notwithstanding the fact that this was communicated to the person concerned by an employee of RWS, who boarded the Schotsman immediately after the grounding. Nor was the grounding reported by the person concerned to the shipowner/DPA. After grounding, the ship continued to make voyages. The Ships Act, Article 9(2),



states that grounding must be reported "upon entry into a Dutch port". The Ships Decree, Article 67(1) states "as soon as possible". The safety management system states that the shipowner must be informed, after the ship has been refloated. None of these requirements has been met.

Failure to report the grounding to the Classification Society puts the ship at risk of being unsafe. That prevents the classification society from making a proper assessment to determine whether the vessel is allowed to proceed and whether measures are needed.

If the grounding is not reported to the ILT, the ILT is also deprived of the opportunity to possibly detain the vessel and investigate.

If the grounding is not reported (on time) to the shipowner/DPA, these authorities cannot take any action at their discretion, such as coming to the aid of the vessel and crew.

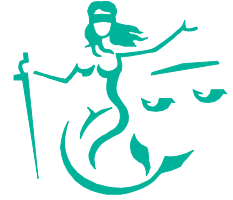
Only if the ship is lost can the person's defence that retrospective reporting has nothing to do with seamanship be valid. Continuing to sail without reporting the grounding to the authorities is unseamanlike (because it is contrary to the duty of care for future crew and cargo, the ship, the environment and shipping traffic). The third and fourth objections, combined with the sixth objection are therefore well-founded.

The conduct of the person concerned 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 captain contrary to the duty of care expected of a good seaman in relation to the persons on board, the ship, its cargo, the environment and shipping.

The disciplinary measure

The Maritime Disciplinary Court judges that the person concerned failed in his responsibilities/duties as captain, which resulted in the grounding.

In view of the seriousness of the evident behaviours a suspension of the navigation licence for the duration mentioned below is appropriate.



In view of the following circumstances the Disciplinary Court sees good cause to stipulate that the suspension of the navigation licence will be fully conditional.

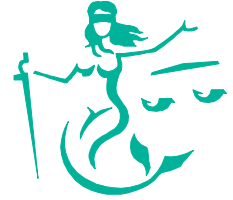
Regarding the notifications, the person concerned did immediately inform traffic control (Joint Nautical Authority) and in that sense complied with the ship's own Safety Management Manual.

The person concerned took adequate measures to refloat the vessel, which was successful within a reasonable period of time. There was also no subsequent evidence of damage to the ship.

6. Practical recommendations

Following on from, but also separately from, the decision in this case, the Disciplinary Court sees cause to make the following recommendations:

1. At all times, the captain should inform the Classification Society and ILT before making subsequent voyages after the occurrence of an incident (grounding), when the incident involved the hull or the machinery and electrical installation.
2. Even if the vessel makes the same round trips in the same area, this does not relieve the captain of the obligation to carefully check the voyage plan and waypoints, taking into account changes in the positions of the buoys in the navigation area and adjusting this information in the voyage plan where necessary. This is to avoid excessively routine navigation.
3. A chart for use as a means of navigation is only valid as a means of navigation if it has been issued by or on behalf of an authority, hydrographic service or other relevant official body. Any means of displaying maps may be in support of navigation, but shall never serve as a primary means of navigation (as referred to in Solas Ch V, reg 19–2.1.4).



7. The decision

The Disciplinary Court,

- dismisses the fifth (misinforming the Classification Society) and seventh (using the Timezero chart plotter to navigate) objections raised against the person concerned as unfounded;
- declares the remaining objections well-founded;
- suspends the navigation licence of the person concerned for a period of three weeks;
- 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 P.C. Santema, LL.M., presiding judge, C.R. Tromp, O.F.C. Magel, A.J. de Heer, LL.M., and C. Kuiken, members, in the presence of V. Bouchla, LL.M., as secretary, and pronounced by P.C. Santema, LL.M., in public session on 02 December 2022.

P.C. Santema
presiding judge

V. Bouchla
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.