



**RULING OF THE MARITIME DISCIPLINARY COURT OF THE NETHERLANDS OF
20 DECEMBER 2024 (NO. 11 OF 2024) IN THE CASE 2024.V3– STAVFJORD**

As petitioned by:

the Minister of Infrastructure and Water Management
in The Hague,

petitioner,

authorised representative: (ir) B.A.C. v. G.,

senior inspector Human Environment and Transport Inspectorate
(ILT)/Shipping in Zwijndrecht

versus

J.T. P,

the person concerned.

1. The course of the proceedings

On 04 July 2024, the Disciplinary Court received a written request (with annexes) for disciplinary treatment from (ir) B.A.C. v. G., aforementioned (hereinafter the inspector) petitioning for a disciplinary hearing of an objection against the person concerned as captain of the Stavfjord vessel sailing under the Dutch flag.

The Disciplinary Court has notified the person concerned of the petition (enclosing a copy of the petition with annexes, as well a video file), and informed the person concerned of the right to submit a statement of defence.

A statement of defence was received from the person concerned on 11 September 2024.



The presiding judge stipulated that the hearing of the case will be held at 13:30 hours on 22 November 2024 at the courtroom of the Disciplinary Court in Amsterdam.

The court hearing was held on 22 November 2024. (ir) B.A.C. v. G. appeared at the hearing as petitioner, accompanied by his colleague, (ir) K. v.d. W.

The person concerned participated in the hearing via an online video link from Denmark, and was assisted by an interpreter.

2. Grounds

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

On 18 February 2024, the Stavfjord was travelling from Hekkelstrand near Narvik to Holmestrand in the vicinity of Oslo, captained by the person concerned. The vessel was sailing in the Norwegian fjords with a draft of Tmean 6.18 metres. Midway through the afternoon, the route took it past Bergen Flesland airport. There, the (new) first officer had landed at 13:55 hours, following a flight from Manila lasting nearly 26 hours in total, including two transfers. At approximately 15:30 hours, this first officer was transported by MOB boat to board the Stavfjord, which was kept running. Once on board, he quickly assumed the sea watch following brief transfer instructions. He was replaced for a meal between 17:15 and 17:25 hours. At approximately 18:58 hours, the vessel grounded at position 59 53 50.4N, long 005 31 43.2E (Norway), whereby the Stavfjord bow collided with the rocky shoreline on a course of 143 degrees and a speed of around 10.5 knots. The first officer was asleep at that time; his estimation was that he possibly fell asleep around 20 minutes before the grounding. He was alone on the bridge and the watch alarm was switched off. Following grounding of the bow, the vessel moved to aft, resulting in the stern colliding with the rocks. As a result of the collision, the forepeak ballast water tank of the



Stavfjord flooded. The vessel also suffered damage to its steering gear and thruster. On that same evening, the Stavfjord was towed to nearby Eldoyane (Stord).

The Stavfjord (IMO number 9321380) is a Dutch cargo vessel, owned by the Stavfjord B.V. Shipping company in Delfzijl and managed by Fonnes Shipping AS. Built in 2005, the vessel is 113 metres long, 14 metres wide and has a gross tonnage of 4206. At the time of the accident, the crew consisted of 9 people in total.

3. The Inspector's objections

3.1 According to the Inspector, the person concerned acted or failed to act 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).

The objection against the person concerned consists of the following elements:

1. The person concerned did not ensure that the (new) first officer was adequately rested and was otherwise capable of assuming duty upon commencement of the watch.
2. The first officer fell asleep due to not being adequately rested. This partly caused the grounding.

3.2 The Inspector cites as the (specific) regulations not complied with, alongside Section 55a of the Seafarers Act:

Seafarers Act section 4 paragraph 7

The captain organises the work and the watch is scheduled such that the watch personnel is adequately rested and is otherwise capable of assuming duty upon commencement of the watch.



MSC.1/Circ. 1598 – Guidelines on fatigue Jet lag

36. Jet lag occurs following long flights through several time zones. Seafarers crossing time zones to join their ship are exposed to a sudden change in the day/night cycle causing circadian disruption. It is a condition that causes fatigue in addition to sleep deprivation and irritability. The body clock will eventually adapt to a new time zone; however, depending on the new schedule, it takes several days to adjust. During the period of adaptation to the new time zone, common symptoms include wanting to eat and sleep at times that are out of step with the local routine, problems with digestion, degraded performance on mental and physical tasks, and mood changes. It is easier to adjust while crossing from east to west than from west to east.

STCW Code Part A /Chapter VIII/ Part 4 – WATCHKEEPING AT SEA

Lookout

14.A proper lookout shall be maintained at all times [...]

15. The lookout must be able to give full attention to the keeping of a proper lookout and no other duties shall be undertaken or assigned which could interfere with that task.

MSC.1/Circ.1474 – Annex – GUIDANCE ON THE BRIDGE NAVIGATIONAL WATCH ALARM SYSTEM (BNWAS) AUTO FUNCTION

SOLAS regulation V/19.2.2.3 requires the provision of a Bridge Navigational Watch Alarm System (BNWAS), which shall be in operation whenever the ship is under way at sea [...]

RESOLUTION MSC.232(82) – ADOPTION OF THE REVISED PERFORMANCE STANDARDS FOR ELECTRONIC CHART DISPLAY AND INFORMATION SYSTEMS (ECDIS)

11.4 Route monitoring

11.4.3 ECDIS should give an alarm if, within a specified time set by the mariner, own ship will cross the safety contour.



11.4.5 An alarm should be given when the specified cross track limit for deviation from the planned route is exceeded.

11.4.6 An indication should be given to the mariner if, continuing on its present course and speed, over a specified time or distance set by the mariner, own ship will pass closer than a user-specified distance from a danger (e.g. obstruction, wreck, rock) that is shallower than the mariner's safety contour or an aid to navigation.

(Inspector's comment: if the audible alerts have been switched off, then part of the alarm function is already inactive. For that matter, the ECDIS alarms cannot be seen as a replacement for the BNWAS.)

3.3 The inspector's demand is: suspension of the navigation licence for a period of four weeks, though the possibility of (only) imposing a fine was also found to be suitable during the hearing.

4. The position of the person concerned

The person concerned has put forward the following arguments:

- I was not on the bridge when the accident occurred.
- I did not have the watch (only in an advisory capacity).
- The first officer probably has more experience in this specific region than I do.
- According to the resting hours of the vessel, he was fully rested.
- I do not need to question everyone who comes on board regarding their activities during their leisure time. The vessel does not have any rest registration of the crew before they are added to the crew list.
- I spoke to him probably for around 45 minutes to an hour when he joined us on board. I judged him to be suitable for the watch.
- If he was feeling too tired to take over the watch, he should have immediately informed me of this.
- Nobody was injured in this accident.



- This accident did not result in damage to other vessels, installations or infrastructure.

5. The ruling of the Disciplinary Court

5.1 The evidence

The file produced at the hearing (petition with annexes from the inspector) and the statement made at that time by the person concerned (captain), provides sufficient evidence for a valid objection.

More specifically, this concerns the following circumstances / statements.

(i) From the statement made by the person concerned at the hearing: I was the captain of the Stavfjord on 18 February 2024. On that day, the Stavfjord bow collided with a rock in the Norwegian fjords, at approximately 18:58 hours. The first officer had the watch that time, but had fallen asleep. He had come aboard via a MOB boat at around three or four o'clock in the afternoon, after a flight of approximately 26 hours (including transfers). His watch began at 4 o'clock. At some point, I left the bridge for my meal. The new first officer was alone on the bridge at that time. The watch alarm was switched off, as was the audible alerts system of the ECDIS.

(ii) The statement by the first officer that he had possibly already fallen asleep approximately 20 minutes before the collision (annex 37).

(iii) The annexes named in the preamble to the petition, which state the following. The first officer had landed at Bergen Flesland airport in Norway at 13:55 hours on that day, following a flight from Manila in the Philippines. The flight took nearly 26 hours, including 2 transfers (from Manila via Singapore and Copenhagen to Bergen Flesland). From the Berg Flesland airport, he travelled to the Stavfjord which was sailing close by. He came on board via a MOB boat at around 15:30 hours. The watch was transferred sometime between 15:30 and 16:00 hours. The first officer was briefly replaced for his meal, between 17:15 and 17:25 hours. He was alone on the bridge, where the bridge alarm was switched off, as was the ECDIS warning system.



(iv) The uncontested statement by the first officer (a) that the captain was aware of the duration of his travel, (b) that the reason for falling asleep was possibly sleep deprivation and (c) that he was only partially rested when beginning his watch (annexes 32 and 37 to the petition).

(v) The reaction (by email message of 6 March 2024) from Fonnes Shipping to the inspector's question regarding how rested the person concerned had been when boarding the vessel and quickly starting his watch: "He travelled from Manila to Bergen, so I wouldn't imagine he'd be completely fit" and to the question regarding the procedures on board to ensure that anyone joining the vessel is rested before his/her watch starts: "No procedure for this situation, is currently under improvement" (annex 20 to the petition).

(vi) The Report of Inspection by the Port State Control, insofar as it contains the following:

"Every vessel shall at all times maintain a proper look-out by sight and hearing (COLREG Rule 5). When the vessel collided on a rock in Langenuen at 1858 hrs. LT on February 18th 2024 the Chief Officer was alone on the bridge and fall asleep."

(vii) The illustration of the ECDIS screen following the grounding, showing "Audible alerts switched off".

(viii) Annex 50 to the petition giving, among other things, the location data of the grounding. That position is also confirmed by other annexes (9, 10, 11, 15, 32, film file) in writing or geographically.

5.2 Considerations

The captain objected, finding it an exaggeration that he should have to ask every crew member coming on board what that crew member had been doing during his leisure hours. He also indicated that there was no need to register resting hours of crew members who have not yet come on board.

However, this is not the point of this case.

In this case after all, one must assume that the captain was aware that the first officer had undertaken a lengthy journey from another continent before starting his watch: a flight from Manila to Bergen, including two transfers, lasting nearly 26 hours, excluding local travel before and after. The captain



should have realised that fatigue could (suddenly) become an issue during the immediate watch (in this sense, also compare the email message from the vessel management). It was therefore improper to require the first officer to undertake the watch shortly after such a lengthy journey, without further adequate bridge crewing, in the dark, navigating the fjords, while the watch alarm and the ECDIS warning system were also deactivated. This situation remains unchanged even if the first officer had not (yet) appeared tired to the captain, when the captain spoke to him upon coming on board; that offers insufficient guarantee that fatigue will not become an issue during subsequent work. Apart from that, the captain's perception was contrary to the first officer's own description of his well-being, namely that he was only slightly rested upon starting his watch.

Fatigue is a well-known cause of maritime accidents. It should also be assumed that a lengthy journey from another continent to the vessel can result in fatigue and resultant sleepiness during routine-based work undertaken immediately upon arrival (also refer to the Guidelines on Fatigue of the Maritime Safety Committee (MSC) of the International Maritime Organisation (IMO), MSC.1/Circ. 1598 and the previous versions). This should be taken into account when organising duties. This did not take place in this case and is a serious offence also by the captain. Any further statements by the captain cannot deter from this.

The person concerned has been accused and proven to act and fail to act in violation of the duty of care that he, as a good seaman, should take with regard to the persons on board, the ship, the cargo, the environment and shipping traffic.

5.3 The disciplinary measure

The Disciplinary Court rules that the person concerned failed in his responsibilities as captain, which resulted in the grounding.

The court agrees with the captain that this is also concerned own responsibility of the first officer, who should also have been personally aware that he was insufficiently rested to be able to assume the watch in a



responsible manner under these circumstances, and that he should therefore have clearly communicated this. This has been taken into account in the imposed sanction. Taking into account that the consequences of the accident were relatively limited and that the person concerned no longer sails under the Dutch Flag, the court has decided to impose a fine of € 2,500.

6. Focal points for professional practice

The current case emphasises the importance of recognition of fatigue factors when appointing and fulfilling watch duties. Such factors also include lengthy travel time prior to joining the vessel. The Maritime Disciplinary Court already referred to this in a judgement of 11 August 2004 following the grounding of the Onego Merchant container vessel (also in Norwegian waters) (Government Gazette 2006/33).

Moreover, the (prescribed) use of alarm systems and a lookout remains essential.

7. The decision

The Disciplinary Court,

- rules that the objection against the person concerned is well-founded;
- imposes a fine of € 2,500 on the person concerned, with the stipulation that this fine must be paid within three (3) months from today.

Duly delivered by J.M. van der Klooster, LL.M., presiding judge, W.A. Barten and H.H. Pannekoek, members, in the presence of V. Bouchla, LL.M., as secretary and pronounced in public session on 20 December 2024.

J.M. van der Klooster
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.