



**RULING OF THE MARITIME DISCIPLINARY COURT OF THE NETHERLANDS OF
18 JUNE 2025 (NO. 3 OF 2025) IN THE CASE 2025.V2-EEMS WARRIOR**

As petitioned by:

the Minister of Infrastructure and Water Management
in The Hague,

petitioner,

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

versus

V. S.,

the person concerned.

1. The course of the proceedings

On 17 March 2025, the Disciplinary Court received a written request (with annexes) for disciplinary treatment from a senior inspector from (ILT)/Shipping, aforementioned (hereinafter the inspector) petitioning for a disciplinary hearing of an objection against the person concerned as first officer of the Eems Warrior vessel sailing under the Dutch flag.

The Disciplinary Court has notified the person concerned of the petition (enclosing a copy of the petition with 59 annexes) and informed the person concerned of the right to submit a statement of defence.

No statement of defence has been received from the person concerned.
The presiding judge stipulated that the hearing of the case will be held at 10:30 hours on 07 May 2025 at the courtroom of the Disciplinary Court in Amsterdam.



The court hearing was held on 07 May 2025. The inspector attended the hearing accompanied by a colleague.

The person concerned attended the hearing via an online video link from Moldavia. He was heard with the assistance of a Ukrainian–Dutch interpreter present in the courtroom.

2. Grounds

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

On 18–12–2024, the Eems Warrior tug was en route from Eemshaven to ‘s–Gravendeel as an individual vessel. It was to collect a barge there. The person concerned was the OOW on approaching the Meuse estuary. The captain entered the wheelhouse before passing the piers at Hook of Holland and took over the watch from the person concerned, who remained in the wheelhouse. The speed was 9 knots. There was no pilot on board, as it was an individual vessel without any obligation to have a pilot on board because of the length of the Eems Warrior. Before the Eems Warrior exited the VTS sector of Maassluis, between Maassluis and the Botlek, the captain left the wheelhouse to go to the toilet. The person concerned now had the watch, and turned from the Scheur river onto the Oude Maas a few minutes later. He then quickly passed the closed Botlekbrug bridge whereby the mast of the Eems Warrior collided with the underside of the bridge. A comparable incident occurred a few minutes later, this time at the closed Spijkenisserbrug bridge, while the captain had returned to the wheelhouse in the meantime.

The Eems Warrior (IMO number 9213674) is a Dutch tug. The vessel is part of the fleet of Amasus Shipping B.V. in Delfzijl and is owned by Warrior B.V. in Farmsum. The vessel was built in 2004, is 35.3 metres long and 8.8 metres wide. The vessel has a gross tonnage of 322. There were 7 crew members on board at the time of the incident.



3. The Inspector's objections

3.1 According to the Inspector, the person concerned acted or failed to act as first officer 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 was unaware of the air draft of the Eems Warrior.
2. The person concerned was unaware of the clearance heights of the closed Botlekbrug and Spijkenisserbrug.
3. Passing the Botlekbrug and Spijkenisserbrug in closed or open state was not discussed by the person concerned with the captain, who went to the toilet shortly before passing the first bridge.
4. Before passing the first bridge, the person concerned informed the VTS operator that there was sufficient space, after the VTS operator had asked the person concerned whether the air draft of the Eems Warrior would enable passage under the closed Botlekbrug.
5. The Eems Warrior's navigation mast collided with both bridges partly because of the objections 1 through 4.

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

SOLAS V Regulation 34 – Safe navigation and avoidance of dangerous situations

1 Prior to proceeding to sea, the master 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*.

Refer to the Guidelines for Voyage Planning, adopted by the Organization by resolution **A.893(21).*

SOLAS Resolution A.893(21) Guidelines for voyage planning



3 Planning

- 3.1 On the basis of the fullest possible appraisal, a detailed voyage or passage plan should be prepared which should cover the entire voyage or passage from berth to berth [...]

STCW Code Part A, Chapter VIII, Section A-VIII/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 master 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.

Resolution A.601 (15) PROVISIONS AND DISPLAY OF MANOEUVRING INFORMATION ON BOARD SHIPS

3 MANOEUVRING INFORMATION

3.1 Pilot card (appendix 1)

The pilot card, to be filled in by the master, is intended to provide information to the pilot on boarding the ship. This information should describe the current condition of the ship, with regard to its loading, propulsion and manoeuvring equipment, and other relevant equipment. The contents of the pilot card are available for use without the necessity of conducting special manoeuvring trials.

3.2 Wheelhouse poster (annex 2) (note by inspector: not compulsory for the Eems Warrior, due to the nature and dimensions of the vessel)

The wheelhouse poster should be permanently displayed in the wheelhouse. It should contain general particulars and detailed information describing the manoeuvring characteristics of the ship, and be of such a size to ensure ease



of use. The manoeuvring performance of the ship may differ from that shown on the poster due to environmental, hull and loading conditions.

Inland shipping police regulations article 1.04 precautionary measures

Even when these regulations do not include specific directions, the captain must take all precautionary measures necessary according to good seamanship or with regard for the circumstances applicable to the vessel or combination, to avoid:

- a. endangering the life of any person;
- b. causing damage to other vessels or to floating objects, or to embankments, structures and facilities of any nature, found in the fairway or along the embankments;
- c. endangering the safety or normal progress of shipping.

3.3 The inspector has demanded a fine of 600 euros to be imposed on the person concerned. In doing so, the inspector noted that should the Disciplinary Court decide to impose part of that amount conditionally or to reduce the amount payable, because of the personal circumstances concerned, the inspector is in agreement.

4. The position of the person concerned

In summary, the person concerned did not dispute the inspector's objections. This was the first occasion that the person concerned had sailed this route. He trusted in the experience of the captain, who knew the route well, and assumed that the vessel would be able to sail under the bridges without any problem.

5. The ruling of the Disciplinary Court

5.1 The means of evidence



The Disciplinary Court bases its assessment of the inspector's objections regarding the acts or omissions of the person concerned on the following means of evidence:

A. The statement of the person concerned at the hearing, in so far as relevant, in concise form summarised:

"I remained on the bridge of the Eems Warrior, because my watch lasted until 8 o'clock in the morning on 18 December 2024. The captain took over navigation, because we were entering the inland waters. The responsibility and authority to make decisions passes to the captain in the event of narrow channels. I needed to request permission from the captain for all actions undertaken by me.

When the captain went to the toilet, we did not explicitly discuss the route to be taken and the passage under the bridges. I had understood from the captain that he has navigated this route in the past, and that there had been no problems with the bridges. Bridges are opened when necessary. I had not paid any attention to the *voyage plan*. The second officer was experienced and so was the captain, so I left that to them.

Just before reaching the Botlekbrug and the Spijkenisserbrug, the captain left to go to the toilet. Due to the captain's experience with this route in the past, we assumed that the passage would take place without hindrance.

When the captain left to go to the toilet, I steered the vessel towards the bridges. I had not paid any attention to the clearance heights. Because we were crossing from one zone to another, the information was passed on to the *VTS controller*. That was the basis on which I understood that we could enjoy passage without obstacles. There was no information available on board regarding the *air draft*. We estimated the *air draft* with plenty of room, to be 25 metres. I am no longer sure where the 15.2 metres came from in my earlier statements. It has been five months since then. I also no longer know whether I notified the *VTS controller* that I had sufficient space to pass under the bridges without opening them. I based my actions on the information discussed with the captain. You have quoted to me what I stated to the *Port State Control* previously. It is quite possible that in my conversation with the



VTS controller, I indicated that we could pass under the bridge without any problems.

We were sailing manually when the captain left to go to the toilet. I myself steered onto the Oude Maas. We were also sailing manually upon passing the bridges. I did not find it difficult to undertake manual sailing and navigation. I did not complain to the captain about having to do so. I assumed that he would only be gone for a few minutes".

B. In an FSC, Eems Warrior questionnaire of 18 December 2024 – formulated by two inspectors of the ILT, and enclosed as annex 15 to the petition – their findings read as follows in point 2:

"Morning time 0900, 17th December 2024, we departed Eemshaven. At 0500 on the 18th 12 2024 we passes breakwaters, Maas pilot was contacted and they confirmed that we can proceed without pilot. Nobody asked the air draught or air draught. Captain came to bridge 0500. We reported to all reporting points as per voyage planning. Again nobody asked about our air draught. Just before passing Botlekbrug Captain needed to use the toilet. Before going to the toilet the Captain checked if everything is clear and good. I replied Captain all is good. I made the required turn to SB to pass under the Botlekbrug. I contacted the VTS, the VTS controller asked if we have enough air draft to pass under the Botlekbrug and I implied I have enough. I did this by visual check. The visual check was done during nighttime, dark hours. Nobody informed me about the water height or air draft restrictions. I passed underneath the Botlekbrug at a speed of 9 kts. At 06.53 we touched the underside of the Botlekbrug with our mast. At around 30 seconds, maximum one minute the captain was back on the bridge. We reduced speed immediately and then we are passing the Spijkenissbrug very quickly after passing the Botlekbrug. Again we touched the bridge, being Spijkenissburg, with the mast at 0700hrs."

C. An Event Report by Amasus, enclosed as annex 26, states the following on pages 83 and 84:

"Root cause analysis:



Based on the (separate) Statements of the Master and Chief Officer and questioning from the QHSE Manager, the reason why the mast touched the two bridges can be defined out of two important facts;

1. The height of the bridges was unknown by the Master, Chief Officer and Second Officer (hereafter called Crew).
2. The air draught of the tug was unknown by Crew.

First point:

The Crew has mentioned during the interview towards the QHSE Manager, there was no information available regarding the heights of the bridges, located on the “Oude Maas”.

However, the information regarding bridge heights can be found:

- in the Nautical Pilot of the designated area.
- in the ECDIS.
- can be requested via VHF or telephone communication to the designated bridge or local VTS.
- can even be found on internet.

But not any action was taken to gather this information prior departure from previous port, or during the passage inbound as the Crew assumed that the height should be fine as they had passed the Oude Maas several times before without issues. Therefore, the speed was kept on 9 knots as it was assumed as safe speed due to no expected limitations.

During inspection (the next day) by QHSE Manager it was noticed that not any Nautical Pilots were onboard, as none of the Crewmembers could explain the location of the booklets and/or why they were absent.

For the good sake order; Nautical Pilots should be onboard of each vessel. They are digital supplied from the Office.

On the ECDIS, by means of the information tool, the vertical clearance was stated in bridge open and close condition (both bridges were able to open upon request). Heights are depending on water level (tidal level).



By means of VHF communication the VTS has asked the tug if a bridge opening was required, but has been rejected by the Chief Officer as he stated that there was clearance enough to pass safely.

On the question from the QHSE Manager “why no Nautical Pilots were available and why they were absent”, no answer could be given.

Second point:

The Crew has mentioned that they was not sure about the air draught of the tug as it was not written anywhere onboard.

The air draught, or better said the dimensions of the vessel could be measured by the ships drawing (e.g. General Arrangement Plan) which is available onboard. Also those dimensions could be measured by the Crew them self by means of measuring tape (the practical way) to get at least a close indication of the height.

If the total height of the tug is known (top of mast to keel), and deduct the draft of the vessel, the air draught can be calculated as it also has to be mentioned on the voyage plan.

This is not been investigated by the Crew, nor any doubts were reported towards the Office.

Referring to the follow SMS procedures;

- SMS.P2.1070 – Charts and Nautical Publications.
- SMS.P2.1010 – Voyage Planning.
- SMS.P4.0110 – IMO resolution A.893(21)
- SMS.P2.1050 – Pre-departure and pre-arrival.
- SMS.P2.1060 – Pilotage.
- SMS.P3.0150 – Pre-arrival checklist – Bridge

Based on above mentioned, and all the available information onboard, the conclusion is that the Crew did not perform a proper Voyage Planning due to the fact that important factors were not known, while sufficient information



was onboard available. Factors like reporting channels of bridges, height limits during the passage, sufficient tidal information, own air draught.

Also is has not been reported to the Office that Nautical Pilots were absent (which should be available all time) and height of the vessel was in doubt. Herefore it is concluded that the Crew did not followed the SMS procedures (referring to the above mentioned procedures) as it is been requested and required by the Company.”

5.2 Considerations

The content of the evidence referred to above has led to conclusions being drawn in this case (with an adequate measure of certainty) that elements 1, 2, 4 and 5 of the objection are well-founded. The person concerned should have been aware that he had the watch. The Botlekbrug has four openings under which a vessel can navigate. Even without a voyage plan, the person concerned should at least have considered which of the four openings he should choose. The person concerned should in any case have reduced speed or have requested the clearance height from VTS. The clearance height of the Botlekbrug can also be read on the height scale given on the bridge. There had already been an earlier height scale warning. The person concerned could have prevented the collisions if he had been aware of the air draft and the clearance height of the vessel.

The third element of the objection is unfounded. The captain entered the wheelhouse before passing the piers at Hook of Holland because they were approaching inland waterways, and took over the watch from the person concerned, who remained in the wheelhouse. The captain, who was ultimately responsible, put the person concerned in a difficult situation by having him take over the wheel just before approaching the bridges, because the captain needed to use the toilet. After all, the captain was familiar and experienced with the route, unlike the person concerned. Before leaving the wheelhouse, the captain should have informed the person concerned about opening the bridges, rather than him being required to ask the captain about this.



The person concerned has been 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 judges that the person concerned failed in his responsibilities as Chief Officer, which resulted in the collision with two bridges.

As the third element of objection is unfounded and with a view to the personal circumstances of the person concerned (who has been forced to return home due to family circumstances, no longer has any income and will probably not have his contract extended with the shipowner because of the collisions), the Disciplinary Court believes that a lower fine should be imposed than that demanded by the inspector.

6. Focal points for professional practice

Following on from, but also separately from, the decision in this case, the Disciplinary Court sees cause to draw attention to the following points:

1. It is recommended that shipowners include a separate box in their standard forms for the voyage plan, with questions regarding tidal heights, allowing for safe passage under bridges.
2. There should be clear instructions that each voyage plan must be signed by all officers of the watch, as proof that they are familiar with the plan.

7. The decision

The Disciplinary Court,

- declares the third element of the objection unfounded;
- declares the objection otherwise well-founded;



- imposes a fine of € 200 on the person concerned, with the stipulation that this fine must be paid within three months from today.

Duly delivered by P.C. Santema, LL.M., presiding judge, H.H. Pannekoek and P.H.G. Schonenberg, members, in the presence of F. Pietersma-Smit, LL.M. as secretary and pronounced in public session on 18 June 2025.

P.C Santema
presiding judge

F. Pietersma-Smit
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.