



**RULING OF THE MARITIME DISCIPLINARY COURT OF THE NETHERLANDS OF  
21 NOVEMBER 2025 (NO. 6 OF 2025) IN THE CASE 2025. V5–CONFIDENCE**

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

E.J. H.,

**the person concerned.**

**1. The course of the proceedings**

On 16 July 2025, the Disciplinary Court received a written request for disciplinary proceedings from a senior inspector from the Human Environment and Transport Inspectorate (hereinafter: the inspector) against the person concerned as captain of the Confidence vessel (hereinafter: the vessel), sailing under the Dutch flag. Attached to the petition were 40 annexes, including a video.

The Disciplinary Court has notified the person concerned of receipt of the petition (enclosing a copy of the petition with annexes) and informed the person concerned of the right to submit a statement of defence. The person concerned did not make use of this option.

The presiding judge has ruled that the oral hearing of the case will take place on 10 October 2025 at 10:00. The Inspector and the person concerned were summoned to appear at the hearing of the Disciplinary Court. In an email of



26 September 2025, the person concerned informed the Disciplinary Court that he would not be attending and that he agreed to the case being judged by default.

The court hearing was held on 10 October 2025. Appearing on behalf of the petitioner: the inspector.

As previously communicated, the person concerned did not appear in court. Leave was granted to proceed in default of appearance against him.

## **2. Grounds**

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

On 17 May 2025, the vessel was navigating during daylight hours from the North Sea through the passage at Terschelling, into the Den Helder–Harlingen–Terschelling seaport area. The wind was northerly, 4 to 5 Beaufort. With a maximum draft of three metres and a strong rising tide, the vessel was en route to Harlingen. The person concerned was alone on the bridge. There was no pilot on board. From the Vliestroom, the person concerned turned to port side into the Blauwe Slenk. The combination of the strong current and northerly wind caused the vessel to sail over the separation buoy number BS 3/IN 2, and to become grounded a little further along. The person concerned had a "Temporary Pilotage Exemption Certificate for Small seagoing vessels" for said seaport area.

The vessel (IMO number 9143582) is a Dutch cargo vessel, owned by the person concerned. Built in 1996, the vessel has a length of 81.42 metres, a width of 9.54 metres, and a gross tonnage of 1141. At the time of the grounding, the crew consisted of five people in total.



### **3. The Inspector's objections**

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 41 paragraph 1 of the Seafarers Act; hereinafter Wbz).

In more concrete terms, the offence is that the person concerned did not engage a pilot to navigate a vulnerable area (the Wadden Sea) with a complex pattern of currents, which was relatively unknown to him. Upon changing course to the Blauwe Slenk, he inadequately anticipated the strong current and northerly wind, resulting in him sailing over the BS3/IN2 separation buoy. This resulted in damage to the buoy and to the starboard rudder of the vessel, so that the vessel drifted off course and became grounded.

The inspector notes that the person concerned had received a temporary PEC for the navigation area in question, as the result of a transition scheme, but added that the person concerned had not been required to take appraisal and examination trips with a pilot on board in order to attain the PEC, and that he seldom navigated this area.

The Inspector cites as the regulations not complied with:

- Article 1:04 Inland shipping police regulations  
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.



- Section 342 Commercial Code  
The captain is required to act with such skill, accuracy and tact necessary for the proper discharge of his duties.
- Section 344 Commercial Code  
The captain is required to engage a pilot, whenever determined by law, custom or caution.

The inspector's demand was to conditionally suspend the navigation licence of the person concerned for four weeks.

#### **4. The position of the person concerned**

In his email to the Disciplinary Court (referred to in 1 above), the person concerned communicated that he did not wish to offer any defence. He did however request attention for the fact that this was a human error and that he believed he had suffered sufficient punishment with a view to the damage and the loss of turnover.

#### **5. The ruling of the Disciplinary Court**

**5.1 Preliminary remark regarding non-attendance of the person concerned.**

Based on Section 54 of the Wbz, any person concerned is obliged to attend following notification to appear at the hearing. If a person concerned does not attend the hearing, the Disciplinary Court may judge the case by default at the hearing or may request that the public prosecutor summons the person concerned, with an order to appear, if necessary. The possibility of judging the case by default in the event of non-attendance is (therefore) not an automatic assumption. A pertinent aspect is that disciplinary law is intended to maintain and promote the quality of the shipping trade, by monitoring the duty of care of the captain and officers. That purpose of disciplinary law is better served by persons concerned attending the hearing in order to communicate their views regarding the incident and to answer



any questions. After all, it is not the sole purpose of the hearing to judge whether a person concerned acted contrary to good seamanship, but also to determine whether the person concerned has learned from the incident and whether lessons can be learned within the broader sense.

As (i) this was a clear case, (ii) the person concerned did not deny the objection and did not wish to offer any defence, and (iii) there was luckily only material damage, the court elected to agree to the wish of the person concerned for the case to be judged by default in this specific matter.

## 5.2 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 by the person concerned in so far as it states:

*"On Saturday, 17 May 2025 we were approaching from Terschelling towards Harlingen, on a rising tide at 07:10 LT. There was a brisk northerly wind, Beaufort 4 to 5. We had navigated the VTS Terschelling area without problems and there were no unusual circumstances. We approached using the sea pilot system. Both autopilot pumps were engaged because of the strong current. The vessel reacted well and maintained course.*

*On leaving the VTS area to enter the Blauwe Slenk, the problems began. Despite the warning by the VTS, which indicated that we were drifting straight ahead instead of turning into the Blauwe Slenk, we could not keep the vessel on track. We believe the unexpectedly strong current in combination with the wind to be the reason for the vessel's leeway, causing us to drift straight on. We were driven straight onto the separation buoy, which I tried to avoid by countersteering. Passing behind the buoy did not seem to be an option because of the limited water level and risk of grounding. That eventually occurred anyway. Further countersteering also did not seem sensible due to the oncoming (express) Doeksen ferry. With hindsight that might have been possible, but it all happened so quickly that collision with the buoy became inevitable.*



*We collided with the buoy on starboard at approximately 08:45, at approximately 1/3 of the stern. The buoy was dragged along the side of the vessel before being submerged under the stern. That gave a resounding bang. We then saw the buoy reappear behind the vessel. The auto sea pilot immediately sounded the alarm and we drifted off course. After having switched to manual steering, I attempted to return to the fairway, but grounding was inevitable.”*

B. The notification from Rijkswaterstaat to the ILT, dated 17 May 2025, insofar as it states:

*“The Confidence motor vessel (IMO 9143582) navigating from Denmark to Leeuwarden sailed over the fairway marking buoy known as separation buoy BS 3/IN 2 whereby the buoy became damaged and unattached from its anchor.*

*As a result of this incident, the vessel became grounded on the sandbank behind this buoy, at the location of the fairway marking buoy BS 3A. Upon our arrival, the vessel was listing a number of centimetres, and the vessel could be seen to be working to refloat itself.”*

C. The findings of the inspector described in the petition, with reference to established locations and evidence, including:

*“The Wadden Sea is [...] a Natura 2000 region [...]. The Wadden Sea is also on the UNESCO world heritage list. It is therefore a vulnerable region through which cautious navigation is required. [...] The seaport area of Den Helder–Harlingen–Terschelling lies within the Wadden Sea. The Confidence came from the North and the planned route was via the passage of Terschelling, Vlieree, Vliestroom, the Blauwe Slenk and the fairway along the Pollendam to Harlingen and eventually to Leeuwarden. [...] These fairways are marked by means of buoys. Page 225 of the Netherlands Coast Pilot [...] gives a number of warnings regarding the tidal currents in this region, including the fact that the tidal currents cannot be predicted with complete certainty. And that in a region with sandbanks, the tidal currents flow through the channels, parallel to the banks. Once the water has risen sufficiently, the tidal current crosses*



*the banks. The pattern of currents is complex within the Wadden Sea. [..'] The person concerned had a "temporary [...] (PEC) for Small seagoing vessels" for said seaport area. [...] the person concerned had not been required to take appraisal and examination trips with a pilot on board in order to attain the PEC. [...] According to [...] data, which when asked was not refuted by the person concerned, he had at most undertaken the following trips in the seaport area of Den Helder–Harlingen–Terschelling on the vessels named by him, between 2010 and 2025: [Following 3 vessels, which had sailed 5 times previously in the area within said period, with the side note that it is unknown whether the person concerned was actually on board 2 of those vessels.]"*

### 5.3 Considerations

The content of the – non-refuted – evidence referred to above has led to the following conclusions being drawn in this case (with an adequate measure of certainty).

Approaching from the North Sea, en route to Harlingen, the person concerned navigated the seaport area of Den Helder–Harlingen–Terschelling as captain of the vessel, on 17 May 2025.

This navigation area is located within the Wadden Sea. The Wadden Sea is a vulnerable natural area with a complex pattern of currents. Upon changing course to the Blauwe Slenk, the person concerned inadequately anticipated the strong current (strong rising tide) and the northerly wind (Beaufort 4 to 5). The vessel therefore began to drift, over separation buoy BS 3/IN2, before becoming grounded. The buoy and the starboard rudder of the vessel became damaged in the process.

The person concerned was alone on the bridge. The person concerned had not engaged a pilot, despite this being a relatively unfamiliar navigation area in which he had little experience. Although he did have a PEC, he had not been required to gain theoretical knowledge of the navigation area, nor had he undertaken appraisal and examination trips with a pilot on board, to



obtain the PEC. The PEC was therefore no guarantee of him being sufficiently familiar with the navigation area and the complex pattern of currents within the area.

With a view to that complex pattern of currents, the natural obstacles and the greater traffic intensity, he should have taken precautionary measures upon passing through this navigation area. Due caution would require him to engage a pilot familiar with the navigation area, the shallows and the risks caused by the strong current in combination with the wind. A pilot is also aware of other (regular) water users navigating the area, such as in this case the ferry. The documents have shown that the express ferry was heading towards the vessel. It may be assumed that, should the person concerned have engaged a pilot, the movements would have been more effectively monitored/geared, thus reducing the risk of the vessel drifting (due to the strong current in combination with the wind) and subsequently becoming grounded.

A further addition is the information guide named "Pilot exemption certificates Sea harbour region of the Northern Netherlands" published by Rijkswaterstaat, which emphasises that there are circumstances under which a pilot must be engaged. The own *"Voyage Plan Guidance"* (page 3) of the vessel also advises the engagement of a pilot *"if you are not familiar with the approach and/or port."*

The person concerned – who failed to take this precautionary measure advised (in relation to the persons on board, the ship, environment and shipping traffic) – allowed the vessel to drift off course and become grounded. There were no circumstances beyond his control in this case. By failing to engage a pilot, he acted contrary to good seamanship (and contrary to article 1.04 of the Inland shipping police regulations, as well as Sections 342 and 344 of the Commercial Code, second book, third title). The Disciplinary Court deems the objection of the Inspector well-founded.





#### **5.4 The disciplinary measure**

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

In view of the seriousness of the evident behaviours of the person concerned a suspension of the navigation licence for a duration yet to be determined is appropriate, according to the inspector's demand. To the advantage of the person concerned, this ruling takes into account the circumstances that there was only material damage.

#### **6. Focal points for professional practice**

Following on from but also separate from the decision in this case, the Disciplinary Court sees cause – for the sake of completeness – to draw attention to the fact that the mere presence of a PEC (Pilotage Exemption Certificate) must not deter from the fact that good seamanship may require the engagement of assistance by a pilot under certain circumstances.

#### **7. The decision**

The Disciplinary Court,

- rules that the objection against the person concerned is well-founded;
- suspends the navigation licence of the person concerned for a period of four 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 persons on board, the ship, the cargo, the environment or shipping traffic 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, S.W. Postma and D. Roest, members, in the presence of V. Bouchla, LL.M., as secretary and pronounced in public session on 21 November 2025.

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.