

## ANAVE – Circular de Régimen Interior

Madrid, 11 de diciembre de 2020

Ref: SMA 76/2020/AB

### Asunto: Polizones - Incidentes a bordo de buques mercantes

Muy Srs. nuestros:

ECSA y ETF tienen previsto enviar la semana que viene una carta sobre el asunto a la Comisión Europea en la que solicitan, entre otras cosas, que se promueva un enfoque coherente del cumplimiento de los instrumentos internacionales sobre polizones en los Estados miembros de la UE, y se acelere la resolución de este tipo de incidentes cuando se produzcan. Les adjuntamos en un **Anexo**, el borrador de dicha carta.

Asimismo, para reforzar el mensaje de su carta a la Comisión, ECSA ha pedido a sus miembros que informen de casos concretos de polizones que se están produciendo y las consecuencias de los mismos.

Si lo consideran conveniente, aquellas empresas que se hayan podido ver afectadas por algún caso de polizones pueden informarnos de sus experiencias sobre este asunto en el correo: [abasurko@anave.es](mailto:abasurko@anave.es), para comunicarlo a ECSA, a más tardar, a lo largo del próximo **lunes 14 de diciembre**. En ningún caso facilitaremos datos particulares identificando a la naviera o buque en cuestión, sino que informaremos con carácter general sobre los sucesos ocurridos.

Rogamos disculpen la urgencia con la que les solicitamos la información, pero nos lo han pedido esta misma mañana.

Muy atentamente,

Elena Seco  
Directora General

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Brussels, X-11-2020

To: Commissioner for Transport, Adina Vălean  
Commissioner for Migration, xxxxxxxx Johansson  
High Representative, xxxxxxxxxxxxxx

Copied to: Permanent Representations of the EU

**Subject: Stowaways onboard merchant vessels | Increase of incidents and diverging responses across the Exxxxxxxxxxxx**

Dear Commissioners, Dear Ministers, Ambassadors,

ECSCA and ETF, jointly recognised as the European Social Partners for Maritime Transport, would like to draw your attention to a rising number of cases of stowaways onboard merchant vessels within and around Europe.

Despite the existence of an international framework designed to prevent unauthorised persons boarding ships and ensure the disembarkation of any stowaways at the next scheduled port of call, differences in approach by EU Member State authorities are emerging in Europe.

With this letter we therefore urge the European Commission to promote a consistent approach in following the international frameworks on stowaways across the EU Member States, accelerating the remedying of incidents. The Commission is also encouraged further to raise awareness of and compliance with these via diplomatic discussions with third countries. We also urge you to consider raising the matter within IMO given the global nature of the problem.

### **Concerns of the maritime Social Partners**

The shipping industry is seriously concerned about the negative impact stowaway incidents can have on ships' crews and on the operation of vessels. The presence of stowaways on board ships can cause delays in port and entail serious financial and legal implications for shipping companies. Situations can also involve violence on the part of stowaways and jeopardise the safety of crew and of navigation. In some cases, like in the UK<sup>1</sup>, shipowners and Masters may be charged with criminal offences if there are illegal immigrants on board ships, even where the carrier/Master has no knowledge of their presence. The implications for shipping companies are further exacerbated when incidents take a long time to resolve.

The economic effects of the pandemic have also likely increased the challenges would-be stowaways face in their home countries and this may become a new immigration route to the EU territory. In parallel, the risks of transmission of the virus may have decreased the willingness of EU Member States to permit stowaways to disembark in their territory. Unfortunately, the effects are felt directly by shipping

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<sup>1</sup> The UK has Carriers' Liability Regulations imposes fines on carriers for transporting clandestine entrants into the country.

companies which report increased frequency of incidents in the last months. See some of the reported incidents in Annex I.

**Prompt resolution of cases**

Under the IMO Convention on Facilitation of International Maritime Traffic, 1965 (FAL Convention), Masters, shipowners, coastal states, public authorities, port authorities and other stakeholders have a responsibility to cooperate to the fullest extent possible in order to resolve stowaway cases expeditiously and ensure that an early return or repatriation of the stowaway will take place. All appropriate measures should be taken in order to avoid situations where stowaways are kept on board ships instead of being disembarked.

**Encourage preventative measures**

Section 4 of the FAL Convention requires, among other things, that coastal states adopt measures to prevent stowaways from accessing ships. Such preventative principles should be recalled and reinforced, while further requirements in respect of port security are contained in the International Ship and Port Security (ISPS) Code, implemented in EU law by Regulation 725/2004 of 31 March 2004. Since a number of the recent incidents seem to involve embarkations that seem to have happened in Spain and Morocco we urge the Commission to address those authorities to ensure due security plans are in place in their ports.

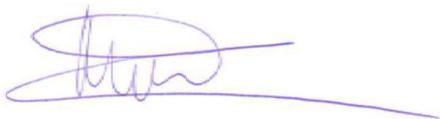
**Reinforce principle of disembarkation if stowaways are found**

The FAL Convention also adds that when stowaways are found on board, the national authorities in the first scheduled port of call are required to disembark them as expeditiously as possible. Resolution FAL.13(42) adds that it is the responsibility of the State of first port of call according to the voyage plan after the discovery of the stowaway to cooperate with the Flag State of the ship in identifying the stowaway and their nationality/citizenship and right of residence, to assist in removal of the stowaway from the ship, and to make arrangements for removal or repatriation.

For all of the above, stowaway incidents should be dealt with in a manner consistent with humanitarian principles. European shipping companies will always take appropriate measures to ensure the general health, welfare and safety of the stowaway until disembarkation, including providing food and medical attention where required. Full solutions must however be found in conjunction with all partners, national, and European authorities.

We thank you for your attention and we remain at your disposal, should you require any further information.

Yours sincerely,



Martin Dorsman  
Secretary General ECSA



Livia Spera  
Acting Secretary General ETF