

NEWSFRONT

GREEK SHIPPING INTELLIGENCE

26 June 2015

Vol. 16 / No. 25



LEGAL OPINION

Pollution – Liability of shipowner

A St. Vincent flag vessel, owned by a Liberian company, polluted the area of Neos Molos of Drapetsona, in Piraeus port area. The pollution was treated by the plaintiffs, who subsequently sued the shipowners for their fees and expenses. As already mentioned, the shipowners were a Liberian company, and the manager was a Maltese one, though not yet established in Greece. [The establishment decree was published later].

Under Greek law, foreign companies are considered to be subject to the laws of their seat. Such seat is not necessarily the one recorded in the statutes of the company, but is judged from the place where its administration takes place. Exception to that, is the case where a company is established in Greece, in which case it is treated as a company governed by the laws of its place of incorporation.

The manager had one director residing in Greece, who was also majority shareholder. Given that at the time of the pollution the manager was not yet established in Greece, it was treated as a de facto Greek partnership, which means its partners are jointly personally liable for the debts of the company.

Further, the manager is jointly liable with the owner in case of pollution. Accordingly, the partner / sole director of the manager, was found liable himself under above principle.

Piraeus Court of Appeal Judgment no 85/ 2014, President: P. Tsandekidou, Rapporteur Judge: S. Lignou, Attorneys at law: A. Routsis, Ev. Apostolidou, Maritime Law Review vol. 42, p. 139.

NOTE: Treatment of offshore companies as companies of the place where their administration takes place, is common in today's heavily regulated world. In Greece, the type of company which corresponds to such activity, is considered by the courts to be the Greek partnership. This in turn, creates personal liability of the partners, so there is a great risk in the case when relevant provisions are not observed.

Managers established in Greece or owners of Greek-flag vessels fall within the exceptions of the above rule, and are considered as subject to the laws of their country of incorporation. However, in the case under examination, the managers had undergone the establishment procedure, but the relevant decree was issued a few days after the pollution. Since establishment is considered valid as from decree publication, the managers were found to be a de facto Greek partnership at that time, resulting in personal joint liability of the partner.

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