ADVANTAGES AND DISADVANTAGES OF THE PARALLEL FLAGS IN AN INTERNATIONAL SHIPPING CONTEXT

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I. Methodological Clarifications

First, this chapter is a strictly legal one. In other words, it does not deal with “parallel flags” from any economic, sociological, psychological, philosophical, metaphysical or similar viewpoints. Obviously, it is very hard to put into words what the Law (or even justice) is. But I am a Galician, and we in Galicia—id est, North-western Spain—are practical men. And from this practical approach, it is clear to me what the Law can be. The Law is not any spirit or abstraction, but a real thing that you can see, that you can touch and that you can read. And this real thing which formalizes the Law is divided into two very concrete elements: statutes (and, therefore, the so-called statutory Law, sometimes collected into codes) and judicial decisions (or so-called case law in a broad sense, usually contained in court reports).¹ In a nutshell, to avoid perplexities, I discuss statutes and judicial and quasi-judicial decisions on the subject of “parallel flags”.

With this important scientific limitation, I think it is also necessary to point out that I approach the subject from a labour or social legal viewpoint. This social background comes to me through two different channels: first, I am an Ordinary Professor on Labour and Social Security Law at the School of Law of one public Galician University,² and as such I am obliged mainly to consider

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² For more information on my University, visit http://www.udc.es.
the legal position of workers and unions; and, secondly, I am also a unionist. The name of my union is, in English, Galician Interunion Confederation—one of the four most representative unions existing in Spain—which includes a sea workers’ federation. Some of my modest publications deal with labour conditions and employment in the maritime sector, starting with my doctoral thesis (written in the University of A Coruña).

On this basis, I will discuss first the meaning of the expression “parallel flags”, which is in my opinion a euphemistic one referring to the non-traditional national shipping registers. Then, I will face the special problems connected to this peculiar kind of flag and arising under the Social Law of the European Union, on the one hand; and under the domestic legislation of at least seven Member States of the European Union (Denmark, Germany, Portugal, Spain, Italy, France and the United Kingdom), on the other hand. From the viewpoint of the advantages and disadvantages of these so-called “parallel flags”, my conclusion will be critical of this kind of flag from the viewpoint of Social Law or Labour Law, since its existence represents advantages to only States and shipowners, in the framework (with the corresponding disadvantages) of a real legal underworld for the workers employed in ships flying such colours.

II. Terminological Clarifications about “Parallel Flags”

To me it is clear that the expression “parallel flags” is not a legal one, since it does not appear to have been used in either statute law or case law relating to the subject. On this subject, the traditional legal expression is ‘flags of convenience’. In this sense, it is enough to cite some documents of the International Labour Organization (ILO), expressly employing such an expression, as in the case of the Merchant Shipping (Minimum Standards) Convention, num. 147 of 1976, the preamble to which refers to vessels “registered under flags of convenience”, although the ILO expressly recognizes that “the registration of vessels in countries other than the nationality of their owners has always presented

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3 In order to get more information on this Galician trade union, visit [http://www.galizacig.com](http://www.galizacig.com).
4 La Seguridad Social de los Trabajadores del Mar, Civitas, Madrid 1999.
5 See, infra, section II.
6 See, infra, section III.
7 See, infra, section IV.
8 See, infra, section V.
10 Para. 4.