Current Legal Developments

Shipping

The Maritime Labour Convention and Open Registries: Hand in Glove or Chalk and Cheese

Introduction

The role of seafarers in the maritime sector cannot be overemphasized. The former Secretary General of the International Maritime Organization (IMO), Efthimios Mitropoulos, has been quoted as saying that “seafarers are a lubricant without which the engine of trade would simply grind to a halt…seafarers are the unsung heroes of an unsung industry”\(^1\) This is also why each year on June 25 the international community celebrates the “Day of the Seafarers” in recognition of the invaluable contribution seafarers make to international trade and the world economy.\(^2\) Despite this, the International Labour Organization (ILO) has acknowledged that many seafarers are vulnerable to exploitation and abuse, non-payment of wages, non-compliance with contracts, exposure to poor diet and living conditions, and sometimes being abandoned in foreign ports.\(^3\)

Seafarers are vulnerable to increased risks in employment, prosecution under different jurisdictions, blame for accidents and pollution, exposure to piracy, robbery, hostage risks, rape, assault and murder. Due to the violations

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and exploitations that seafarers are facing, governments, ship owners and seafarers were prompted to act. In 2006, during the 94th Maritime Session of the ILO Conference, the international community adopted the Maritime Labour Convention (hereinunder referred to as the ‘Convention’).

**Brief Overview of the Maritime Labour Convention**

The Convention entered into force on 20 August 2013, 12 months after the date of ratification by 30 Members with a total share in gross tonnage of ships of at least 33 per cent. The Convention has been described by some scholars as the “international seafarers’ Bill of Rights”. This is due to the Convention’s significance for addressing violations and exploitations faced by seafarers. It comprises 16 Articles and a Code; the latter has 5 titles dealing with minimum requirements for seafarers to work on a ship, conditions of employment, accommodation, recreational facilities, food and catering, health protection, medical care, welfare and social security protection, and compliance and enforcement. States parties to the Convention are no longer bound by preceding ILO maritime labour instruments. However, those ILO maritime labour instruments will still be binding on those flag States that have not yet ratified the Convention.

The Convention consolidates the important principles and standards from 37 earlier maritime labour conventions and related recommendations dating from 1920, and puts them into an innovative format aimed at achieving universal acceptance, securing ongoing compliance and allowing for more rapid updating. It is designed to be firm on rights and flexible in implementation. The Convention is divided into three parts: the Articles, the Regulations and the Code. The Articles and Regulations contain the rights and principles and basic obligations that States parties are required to meet. The Articles and Regulations can be amended according to the terms of Article 19 of the Constitution of the ILO.

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