

POLISH MARITIME LAW ASSOCIATION

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Szczecin (Poland), 15th November, 2013

Ms Audile Plegat
Project Coordinator
Comite Maritime International

by e-mail (plegat.cmi@gmail.com) only

Dear Ms Plegat,

re.: questionnaire – Expansion Project “Jurisprudence on Maritime Conventions”.

Reference is made, with thanks, to the CMI’s President’s, Mr Stuart Hetherington’s, e-mail of 18th October, 2013, attaching the questionnaire.

Please find below responses of the Polish MLA to the questionnaire. This letter adopts the numbering of the questionnaire.

Ad. 1.

In Poland, the language of the Maritime / Admiralty authorities’ (courts’ and other competent institutions’) decisions is Polish only.

Ad. 2.

There are several judicial or quasi-judicial authorities, deciding upon maritime matters, in Poland:

- 1) the Maritime Chamber, a quasi-judicial authority, is in general entitled to decide upon matters of accidents at sea. There are two Chambers, one in Szczecin and the other one in Gdynia. Decisions of the Chambers can be appealed. If appealed, the Maritime Chamber of Appeal in Gdynia is competent to hear the appeals and decide whether to approve or change the appealed decisions, in whole or in part;
- 2) the State Commission for Investigating Sea Accidents has been established in order to transpose the Directive 2009/18/EC of the European Parliament and the Council of 23rd April, 2009 establishing the fundamental principles governing the investigation of accidents in the maritime transport sector and amending the Council Directive 1999/35/EC and the Directive 2002/59/EC of the European Parliament and the Council. The Commission is an independent, quasi-judicial authority investigating marine casualties and incidents in accordance with the Polish law and rules as well as standards and guidelines agreed by the IMO and binding Poland;
- 3) the (civilian) common courts also decides upon maritime matters, e.g. vessels’ arrest. There are district courts, regional courts and appeal courts as well as the Supreme Court and all of them might be competent on different stages of proceedings.

Ad. 3.

- 1) There is a general database of decisions issued by civilian courts, which is available at the Polish Department’s of Justice website: <http://orzeczenia.ms.gov.pl/>.

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- 2) The Supreme Court has a separate database of decisions, which can be found at the Supreme Court's website: <http://www.sn.pl/orzecznictwo/SitePages/Baza%20orzecze%C5%84.aspx>.
- 3) Decisions of the Maritime Chambers are available at: http://www.im.gov.pl/index.php?option=com_content&view=category&layout=blog&id=34&Itemid=53.
- 4) Decisions of the State Commission for Investigating Sea Accidents are not available on-line or from any other source yet.

Ad. 4.

Rather not. There is only, if still at all, publication made by the Supreme Court on its decisions.

Ad. 5.

The decisions are commonly available on-line and can be downloaded directly from the websites without any formalities.

Ad. 6.

In general, when the a justification of the decision has been issued, full text is available on-line. However, in some situations there are available only decisions' abstracts or head notes.

Ad. 7.

Official databases publish the decisions only in Polish. There are not, on these databases, any translated abstracts and head notes of the decisions, neither the full versions of the decisions.

Ad. 8.

For the best of our knowledge, there are no such publications available.

Ad. 9.

No applicable.

Ad. 10.

- a) The head notes / abstracts of the decisions available via public authority sources (such as judiciary's website) are not copyright protected. In accordance with art. 4 letter c) of the Polish Act on Copyright and Related Rights, "*official documents, materials, marks and symbols*" are not subject to copyrights. Please note, however, that in most cases collections, anthologies, selections of such decisions as well as projects and/or commentaries to such decisions shall be copyright protected. Customarily, one using the head notes / abstracts is asked to name the authority passing the decision as well to denote the decisions numbers.
- b) The full text of the decisions available via public authority sources also is not copyright protected (see a) above). Customarily, one using the head notes / abstract is asked to name the authority passing the decision as well to denote the decisions number.
- c) The head notes / abstracts of commercial publications are copyright protected. However, in accordance with art. 29 section 1 of the Act on Copyright and Related Rights, "*works*

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d) Full texts, as published by commercial publications, are copyright protected.

The responses were contributed by: Mr Marek Czernis, Mr Paweł Mickiewicz, Mr Dariusz Szymankiewicz and Mr Andrzej Oryl – Attorneys at Law at Marek Czernis & Co. Law Office (Szczecin, Poland).

In case of any doubts or questions, please feel free to ask anytime.

With Best Regards,



MAREK CZERNIS
Vice-President

p.p. Szymankiewicz Putkiewicz
PAWEŁ MICKIEWICZ
Secretary