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Labor Standards on Cypriot Ships: Myth and Reality

*Iliana Christodoulou-Varotsi**

*Dmitri A. Pentsov***

ABSTRACT

This Article offers a comprehensive comparative analysis of labor and social security standards on Cypriot and Greek ships. Potential cost savings for shipowners who register their ships in one country rather than the other may result from the absence of a given standard in the country of registration, or a lower or more flexible standard in that country than in the other. The authors conclude that the registration of ships in Cyprus does not provide overall advantages (in terms of "inferior" labor standards) over registration in Greece. Broadly speaking, shipowners may gain certain advantages by registering their ships in Cyprus with regard to working hours, manning, repatriation, and social security standards. However, the authors also show that shipowners registering their ships in Greece may gain advantages with respect to standards concerning repatriation of seamen, crew accommodation, and articles of agreement.

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Readers are cautioned that this Article is intended for information purposes only and that if legal advice is required, a lawyer should be consulted.

The Article also explores changes in the labor and social security legislation of Cyprus, applicable to merchant ships flying its flag, that may be expected as a result of its entry into the European Union, and whether these changes are likely to affect the attractiveness of Cyprus as a place of registration for foreign shipowners. The authors conclude that an open registry in Cyprus may not automatically be antithetical to adequate labor standards, nor contrary to the interests of responsible shipowners. They predict that the influence of international law, and EC law in particular, on maritime labor standards will result in the continued attractiveness of Cyprus as a place of registration.

TABLE OF CONTENTS

I.	INTRODUCTION	649
II.	THE MERCHANT SHIPPING (MINIMUM STANDARDS) CONVENTION OF 1976 (CONVENTION NO. 147): BENCHMARK FOR COMPARISON	653
III.	COMPARISON OF LABOR STANDARDS ON CYPRIOT AND GREEK SHIPS.....	660
	A. <i>Scope of Convention</i> <i>No. 147 in Cyprus and in Greece</i>	660
	B. <i>Safety Standards (Article 2, Paragraph (a)(i))</i> ..	662
	1. <i>Qualifications</i>	662
	2. <i>Standards for Hours of Work</i>	671
	3. <i>Standards of Manning</i>	674
	4. <i>Other Safety Standards</i>	679
	(a) <i>Prevention of Accidents</i>	679
	(b) <i>Minimum Age</i>	683
	(c) <i>Medical Examination</i>	685
	(d) <i>Food and Catering</i>	690
	(e) <i>Repatriation of Seamen</i>	693
	C. <i>Social Security Standards: Sickness, Injury, and Medical Care</i>	697
	D. <i>Shipboard Conditions of Employment and Living Arrangements: Crew Accommodation</i>	705
	E. <i>Other Matters Appended to Convention No. 147</i>	708
	1. <i>Articles of Agreement</i>	708
	2. <i>Freedom of Association, Right to Organize, and Collective Bargaining</i>	714
IV.	RECENT DEVELOPMENTS CONCERNING CYPRUS.....	719
V.	CONCLUSION.....	724

I. INTRODUCTION

The objective of reducing high labor costs associated with crews in traditional maritime countries under conditions of tough competition in the international shipping transportation market is traditionally considered one of the principal motives for registration of ships in "open registry" or "flag of convenience" countries.¹ Correspondingly, one of the stereotypes associated with ships flying the "flag of convenience" is the low level of seamen's wages as well as low labor and social security standards.² In light of the statistics of maritime casualties, in which ships registered in these countries traditionally occupy leading positions,³ and the campaign against "flags of convenience" conducted by the International Transport

1. See, e.g., N.P. READY, SHIPS REGISTRATION 52 (3rd ed. 1997). Despite the fact that at the present time there is no generally acceptable definition of these terms among scholars and practitioners, countries of "open registry" or, as they are also called, countries of the "flag of convenience," are usually understood to be those countries that satisfy one or more of the following criteria, laid down by a British Committee of Inquiry in 1970 (the Rochdale Criteria): (i) allows ownership or control of its merchant vessels by non-citizens; (ii) access to the registry is easy (a ship may usually be registered at a council's office abroad), and transfer from the registry at the owner's option is not restricted; (iii) taxes on the income from shipping are not levied locally or are low—a registry fee and an annual fee, based on tonnage are normally the only charges made (a guarantee or acceptable understanding regarding future freedom from taxation may also be given); (iv) the country of registry is a small power with no national requirement under any foreseeable circumstances for all the shipping registered, but receipts from very small charges on a large tonnage may produce a substantial effect on its national income and balance of payments; (v) manning of ships by non-nationals is freely permitted; and (vi) country of registry has neither the power nor the administrative machinery effectively to impose any government or international regulations; nor has the country the wish or the power to control the companies themselves. Committee of Inquiry into Shipping, London, H.M.S.O. 1970, Cmnd. 4337, 51 (the Rochdale Report); GEORGE C. KASOULIDES, PORT STATE CONTROL AND JURISDICTION: EVOLUTION OF THE PORT STATE REGIME 78-79 (1993).

2. See, e.g., ILO, The Impact on Seafarers' Living and Working Conditions of Changes in the Structure of the Shipping Industry: Report for Discussion at the 29th Session of the Joint Maritime Commission 26, 100, JMC/29/2001/3 (2001) [hereinafter Impact on Seafarers]; Organisation for Economic Co-operation and Development, Competitive Advantages Obtained by Some Shipowners as a Result of Non-Observance of Applicable International Rules and Standards, OECD/GD(96)4 (1996); Note, *Promulgation and Enforcement of Minimum Standards for Foreign Flag Ships*, 6 BROOK. J. INT'L L. 54, 55 (1980); Note, *Re-evaluating the Status of Flags of Convenience Under International Law*, 23 VAND. J. TRANSNAT'L L. 1017, 1044-45 (1991); Edith A. Wittig, Note, *Tanker Fleet and Flags of Convenience: Advantages, Problems, and Dangers*, 14 TEX. INT'L L.J. 115, 119-20 (1979).

3. See, e.g., HANS J. PETERS, THE MARITIME TRANSPORT CRISIS 23 (1993); INTERNATIONAL COMMISSION ON SHIPPING, SHIPS, SLAVES AND COMPETITION 252 (2000).

Workers' Federation (ITF),⁴ both these countries and the shipowners registering their ships in such countries have acquired a certain negative image in public opinion.⁵

Would one be justified in applying this stereotype to shipowners registering their ships in Cyprus, one of the five major "open registries" countries?⁶ Would one be justified in presuming that labor standards on ships flying the flag of Cyprus are "second-class" or "inferior" as compared to standards on ships flying the flags of countries not classified as "open registries," based exclusively on the fact that Cyprus is considered an "open registry" country?

The answer to this question is not obvious. On one hand, Cyprus has ratified a number of conventions of the International Labour Organization (ILO), covering a broad spectrum of aspects of maritime employment, notably the Merchant Shipping (Minimum Standards) Convention of 1976 (Convention No. 147), a universal instrument establishing the minimum internationally acceptable labor and social standards for merchant vessels, regardless of their place of registration.⁷ Furthermore, Cyprus is currently in the process of joining the European Union. As a consequence, its legislation is undergoing revision to bring it into conformity with a comprehensive

4. See, e.g., HERBERT R. NORTHRUP & RICHARD L. ROVAN, *THE INTERNATIONAL TRANSPORT WORKERS' FEDERATION AND FLAG OF CONVENIENCE SHIPPING* 55-94 (1983); *INTERNATIONAL TRANSPORT WORKERS' FEDERATION, FLAGS OF CONVENIENCE: THE ITF'S CAMPAIGN* 24-25 (1993); Herbert R. Northrup & Peter B. Scrase, *The International Transport Workers' Federation Flag of Convenience Shipping Campaign: 1983-1995*, 23 *TRANSP. L.J.* 369, 371-74 (1996).

5. See generally PAUL K. CHAPMAN, *TROUBLE ON BOARD: THE PLIGHT OF INTERNATIONAL SEAFARERS* (1992); A.D. COUPER ET AL., *VOYAGES OF ABUSE* (1999).

6. Panama, Liberia, Cyprus, the Bahamas and Malta are traditionally considered the most important countries of "open registry." See, e.g., BRUCE FARTHING & MARK BROWNRIGG, *FARTHING ON INTERNATIONAL SHIPPING*, 188-89 (3rd ed. 1997).

7. ILO, Convention concerning Minimum Standards in Merchant Ships, C. 147 (1976), 15 I.L.M. 1288 (entered into force for Cyprus on Sept. 19, 1996) [hereinafter Convention No. 147]. Other maritime labor conventions currently in force for Cyprus are the ILO, Medical Examination of Young Persons (Sea) Convention, C. 16 (1921) (entered into force for Cyprus Sept. 23, 1960) available at www.ilo.org/ilolex/english/iloquery.htm [hereinafter Convention No. 16]; the ILO, Repatriation of Seamen Convention of 1926, C. 23 (entered into force for Cyprus Sept. 19, 1995) available at www.ilo.org/ilolex/english/iloquery.htm [hereinafter Convention No. 23]; and the ILO, Accommodation of Crews Convention (revised) (ILO No. 92), opened for signature June 18, 1949, 160 U.N.T.S. 223 (entered into force for Cyprus Mar. 19, 1996) [hereinafter Convention No. 92]. Cyprus has also ratified the ILO, Convention on Minimum Age for the Employment of Children at Sea, 54 Stat. 1705, 40 U.N.T.S. 205, adopted on Oct. 24, 1936, but its ratification was denounced on Oct. 2, 1997, as a result of the ratification by Cyprus of the Convention Concerning Minimum Age for Admission to Employment, C. 138 (1973), 1015 U.N.T.S. 297, available at www.ilo.org/ilolex/english/iloquery.htm [hereinafter Convention No. 138].

set of European Union regulations dealing with labor standards on merchant ships flying the flags of its members.⁸

On the other hand, despite recent ratification of Convention No. 147 and expected changes in its legislation, Cyprus remains one of the most popular places for registration of ships by foreign shipowners. According to data of the U.N. Conference on Trade and Development (UNCTAD), as of January 1, 2002, based on the tonnage of registered ships of 1,000 or more Gross Registered Tonnage (GRT), Cyprus was ranked fifth (32,941,000 deadweight tonnage) among the countries of "Open Registry," behind Panama (171,874,000 dwt), Liberia (73,179,000 dwt), Bahamas (45,327,000 dwt), and Malta (42129000 dwt), and fourth (1,191 ships) based on the number of such ships, only behind Panama (4,419 ships), Liberia (1,436 ships), and Malta (1,287 ships).⁹ At the same time, the Cypriot national shipowners accounted for only 756 dwt or 2.3 percent of the total tonnage of ships registered in Cyprus. The remaining tonnage belonged to foreign shipowners.¹⁰ While Cyprus was ranked thirty-fourth among the thirty-five most important maritime countries and territories based on tonnage of ships of 1,000 or more GRT owned by its nationals, it would rank sixth in the world based solely on the tonnage of ships under the national flag (regardless of their true ownership), after the states above and also Greece (45,707,599 dwt); and sixth as well based on the number of such ships after the states above, the Russian Federation (2,156 ships), and China (1,584 ships).¹¹ Furthermore, taking into account that as of December 31, 1996, 1,348 vessels with the combined deadweight tonnage of 33,050 were registered under its flag,¹² it appears that the entry of this convention into force for Cyprus later that year did not cause any significant decrease in the number of ships registered there. Either the ratification of Convention No. 147 by Cyprus did not require any subsequent changes in its legislation; or these changes have been made but the legislation itself is not efficiently enforced; or, contrary to traditional belief, savings on labor costs as a result of lower labor

8. European Community Commission, Rapport regulier 2001 sur les progrès réalisés par Chypre sur la voie de l'adhésion (Nov. 13, 2001) 60-63 SEC(2001)1745 [hereinafter European Community Commission Report]; LIANA CHRISTODOULOU-VAROTSI, L'ADAPTATION DU DROIT MARITIME HELLENIQUE ET DU DROIT MARITIME CHYPIOTE AU DROIT COMMUNAUTAIRE (1999).

9. U.N. CONFERENCE ON TRADE AND DEVELOPMENT REVIEW OF MARITIME TRANSPORT, 2002, U.N. Doc. UNCTAD/RMT/2002 at 33 (tbl. 17), U.N. Sales No. E.02.II.D.23 (2002).

10. *Id.* at 33.

11. *Id.* at 31-32.

12. U.N. CONFERENCE ON TRADE AND DEVELOPMENT REVIEW OF MARITIME TRANSPORT, 1997, U.N. Doc. UNCTAD/RTM/97/1 at 30 (tbl. 17), U.N. Sales No. GV.E.97.II.D.9 (1997).

standards is not the main reason shipowners choose to register their ships in Cyprus.

Since several alternative explanations are possible as to why the ratification of Convention No. 147 by Cyprus has not resulted in a diminution of its attractiveness as a place to register ships from the point of view of labor costs, the labor and social security standards on ships flying its flag cannot be presumed to be "lower" in comparison with those on ships registered in "non-flag of convenience" countries. In order to establish the true level of labor standards on Cypriot ships, it is necessary to compare them with standards on ships of such a country. Taking into account that seventy percent of the tonnage of ships currently registered in Cyprus is owned by Greek nationals,¹³ labor and social security standards on ships registered in Greece seems to be a logical point of comparison.

This Article offers a comparative analysis of labor and social security standards on Cypriot and Greek ships. The comparison is carried out from the point of view of potential cost savings for shipowners, resulting either from an absence of a respective standard,¹⁴ a "lower" standard,¹⁵ or a "more flexible" standard.¹⁶ The Article also discusses what changes in the labor and social security legislation of Cyprus, applicable to merchant ships flying its flag, could be expected as a result of its entry into the European Union, and whether these changes could affect the attractiveness of Cyprus as a place of registration for foreign shipowners. Since Convention No. 147, prescribing a comprehensive set of labor standards on merchant ships, has been ratified by both Cyprus and Greece,¹⁷ it may be used as a benchmark for comparison of labor standards on Cypriot and Greek ships. Before such comparison is made, it is desirable briefly to discuss the content of its main provisions.

13. *Id.* at 34.

14. For example, while under the legislation of one country the shipowner shall bear the cost of repatriation of seafarers, under the legislation of another country it does not.

15. For example, the amount of severance pay in case of termination of employment prescribed by the legislation of one country is lower than that prescribed by the legislation of another country.

16. For example, the list of grounds for unilateral termination of the employment relationship by a shipowner prescribed by the legislation of one country is broader than that prescribed by the legislation of another country.

17. Convention No. 147, *supra* note 7 (entered into force for Greece on Sept. 18, 1980).

II. THE MERCHANT SHIPPING (MINIMUM STANDARDS) CONVENTION OF 1976 (CONVENTION NO. 147): BENCHMARK FOR COMPARISON

The Merchant Shipping (Minimum Standards) Convention (Convention No. 147) was adopted at the sixty-second session of the International Labour Conference in 1976 and entered into force on November 28, 1981.¹⁸ As of January 31, 2004, it had been ratified by forty-five countries.¹⁹ This Convention constitutes what is probably the most important international instrument on maritime labor standards, notably aiming at the problem of substandard ships.²⁰ It is supplemented by the Merchant Shipping (Improvement of Standards) Recommendation of 1976 (Convention No. 155).²¹ Furthermore, the Protocol to Convention No. 147 was adopted at the eighty-fourth session of the International Labour Conference in 1996.²² The latter attaches significance to port state control over labor and social conditions.²³

18. *Id.*

19. Azerbaijan, the Bahamas, Barbados, Belgium, Brazil, Bulgaria, Canada, Costa Rica, Croatia, Cyprus, Denmark, Dominica, Egypt, Finland, France, Germany, Greece, Iceland, India, Iraq, Ireland, Israel, Italy, Japan, Kyrgyzstan, Latvia, Lebanon, Liberia, Luxembourg, Malta, Morocco, the Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Slovenia, Spain, Sweden, Tajikistan, Trinidad and Tobago, Ukraine, the United Kingdom, and the United States.

20. See, e.g., E. Argiroffo, *Flags of Convenience and Substandard Vessels. A Review of the ILO's Approach to the Problem*, 5 INT'L LABOUR REV. 437, 451-52 (1974); D. Appave, *Convention No. 147: Contents, Aspects of Ratification and Implementation Including the Inspection of Labour Conditions on Board Ship*, in INTERNATIONAL MARITIME LABOUR STANDARDS FOR THE CARIBBEAN, REPORT OF THE ILO REGIONAL SEMINAR, 9-13 DECEMBER 1991 46-65 (1992); Patrick Chaumette, *Les transformations au sein de la marine marchande: une relation de travail sans attaches?*, XIX ANNUAIRE DE DROIT MARITIME ET OCÉANIQUE 53-93 (2001); Patrick Chaumette, *Le contrôle des navires par l'Etat du port*, in LA NORME, LA VILLE ET LA MER, ECRITS DE NANTES, EN L'HONNEUR DU DOYEN YVES PRATS 265-82 (2000); Sir Anthony Clarke, *Port State Control of Substandard Ships: Who is to Blame? What is the cure?*, LLOYD'S MAR. COM. L.Q. 202, 202-09 (1994).

21. See *supra* note 20.

22. See *id.*

23. See Iliana Christodoulou-Varotsi, *Port State Control of Labour and Social Conditions: Measures Which Can be Taken by Port States in Keeping with International Law*, XXI ANNUAIRE DE DROIT MARITIME ET OCÉANIQUE 251, 259 (2003). Port state control is part of a port state jurisdiction. Port state control allows the port state to exercise control over issues of maritime safety, marine pollution, and issues of crew competence and working conditions on board foreign ships calling at its ports. Given the lack of interest by a number of flag states for the exercising of effective control over their fleets port state control is used as an alternative mode of enforcement of international standards. See, e.g., KASOULIDES, *supra* note 1, 110-41 (1993); G.P. PAMBORIDES, INTERNATIONAL SHIPPING LAW: LEGISLATION AND ENFORCEMENT 47-75 (1999).

Furthermore, it is worth noting the following main characteristics of Convention No. 147. First, within the framework of port state control established by Article 4 of Convention No. 147, the Convention is also applicable to vessels flying the flag of a member state which has not ratified it.²⁴ Second, member states which have not ratified the Conventions listed in the Appendix to Convention No. 147 must ensure "substantial equivalence" to a number of obligations stemming from the Conventions or Articles of the Convention in question. Last but not least, while the success of Convention No. 147 is not in question, further measures should be considered as regards its effective application, especially in the light of the limited application of the instrument in parts of the world where a low rate of ratification is recorded, as well as in light of the current consolidation process of the ILO maritime instruments. It should, moreover, be stressed that, in Asia, only India and Japan have ratified the instrument and that much progress has to be achieved as regard to its ratification in Latin America as well.

In connection with prerequisites to ratification, Convention No. 147 states that it is open to ratification by members who

- (a) are parties to the International Convention for the Safety of Life at Sea, 1960, or the International Convention for the Safety of Life at Sea, 1974, or any Convention subsequently revising these Conventions; and
- (b) are parties to the International Convention on Load Lines, 1966, or any Convention subsequently revising that Convention; and (c) are parties to, or have implemented the provisions of, the Regulations for Preventing Collisions at Sea of 1960, or the Convention on the International Regulations for Preventing Collisions at Sea, 1972, or any Convention subsequently revising those international instruments.²⁵

It was felt during the discussion of the draft Convention at the sixty-second session of the International Labour Conference, that the social and labor standards laid down in Convention No. 147 could not be dissociated from the basic safety standards contained in the International Maritime Organization (IMO) instruments.²⁶ As far as countries not party to IMO instruments are concerned, the Convention provides for ratification of the aforementioned upon their

24. Both the Committee on Substandard Vessels, Particularly Those Registered under Flags of Convenience, set up by the 62d (Maritime) Session of the International Labour Conference, and the Conference itself decided against limiting the application of Article 4 of the Convention to ships flying the flag of the state which has ratified the Convention. See ILO, Substandard Vessels, Particularly those Registered Under Flags of Convenience, 62d (Maritime) Sess., 1976, Record of Proceedings 192 (§ 77), 260-61 (ILO, Geneva, 1977).

25. Convention No. 147, *supra* note 7, art. 5, ¶ 1.

26. International Labour Conference, 62d (Maritime) Sess., 1976, Record of Proceedings 193 (ILO, Geneva, 1977).

undertaking—in the form of a formal declaration by the member state concerned—progressively to comply with all requirements.²⁷

Convention No. 147 applies to every seagoing ship, “whether publicly or privately owned, which is engaged in the transport of cargo or passengers for the purpose of trade or is employed for any other commercial purpose.”²⁸ “National laws or regulations shall determine when ships are to be regarded as seagoing ships for the purpose of the Convention.”²⁹ The Convention applies to seagoing-tugs,³⁰ but does not apply to ships “primarily propelled by sail, whether or not they are fitted with auxiliary engines; ships engaged in fishing or in whaling or in similar pursuits; or small vessels and vessels such as oil rigs and drilling platforms when not engaged in navigation.”³¹ “The decision as to which vessels are covered by this latter category is to be taken by the competent authority in each country in consultation with the most representative organizations of shipowners and seafarers.”³²

Each member of the ILO which ratifies Convention No. 147 undertakes to have laws or regulations for ships registered in its territory, laying down

- (i) safety standards, including standards of competency, hours of work and manning, so as to ensure the safety of life on board ship; (ii) appropriate social security measures; and (iii) shipboard conditions of employment and shipboard living arrangements, insofar as these, in the opinion of the Member, are not covered by collective agreements or laid down by competent courts in a manner equally binding on the shipowners and seafarers concerned; and to satisfy itself that the provisions of such laws and regulations are substantially equivalent to the Conventions or Articles of Conventions referred to in the Appendix to this Convention, insofar as the Member is not otherwise bound to give effect to the Conventions in question.³³

The Appendix to Convention No. 147 lists the following ILO Conventions: the Minimum Age Convention of 1973 (Convention No. 138), or the Minimum Age (Sea) Convention (Revised) of 1936 (Convention No. 58), or the Minimum Age (Sea) Convention of 1920 (Convention No. 7); the Shipowners' Liability (Sick and Injured Seamen) Convention of 1936 (Convention No. 55), or the Sickness Insurance (Sea) Convention of 1936 (Convention No. 56), or the Medical Care and Sickness Benefits Convention of 1969 (Convention No. 130); the Medical Examination (Seafarers) Convention of 1946 (Convention No. 73); the Prevention of Accidents (Seafarers)

27. Convention No. 147, *supra* note 7, art. 5, ¶ 2.

28. *Id.* art. 1, ¶ 1.

29. *Id.* art. 1, ¶ 2.

30. *Id.* art. 1, ¶ 3.

31. *Id.* art. 1, ¶ 4.

32. *Id.*

33. *Id.* art. 2(a).

Convention of 1970 (Convention No. 134) (Articles 4 and 7); the Accommodation of Crews Convention (Revised) of 1949 (Convention No. 92); the Food and Catering (Ships' Crews) Convention of 1946 (Convention No. 68) (Article 5); the Officers' Competency Certificates Convention of 1936 (Convention No. 53) (Articles 3 and 4); the Seamen's Articles of Agreement Convention of 1926 (Convention No. 22); the Repatriation of Seamen Convention of 1926 (Convention No. 23); the Freedom of Association and Protection of the Right to Organize Convention of 1948 (Convention No. 87); and the Right to Organize and Collective Bargaining Convention of 1949 (Convention No. 98).³⁴ Convention No. 147 itself explicitly states that, "[n]othing in the Convention shall be deemed to extend the scope of the Conventions referred to in the Appendix to the Convention or the provisions contained therein."³⁵

The formula "insofar as the Member is not otherwise bound" means that when the member has ratified both Convention No. 147 and any other ILO Convention(s) listed in the Appendix to Convention No. 147, that member has the duty to ensure strict compliance.³⁶ On the contrary, where the member has ratified Convention No. 147 but has not ratified any specific ILO Convention listed in the Appendix, it does not have a duty to ensure strict compliance with ILO Conventions but instead has the duty to apply those conventions on the basis of the principle of "substantial equivalence."

The next question to be raised is what "substantially equivalent" means. This question was examined in 1990 by the Committee of Experts on the application of Conventions and Recommendations in a General Survey of labor standards on merchant ships.³⁷ The Committee of Experts has pointed out that, where there is not full conformity with the Convention's Appendix, the test that the Committee will apply involves first determining the general goals of a given Convention—its objects and purposes.³⁸ These may take the form of one main goal and several subordinate goals. The test for

34. *Id.*

35. *Id.* art. 1, ¶ 5.

36. *Id.*

37. International Labour Office, *Labour Standards on Merchant Ships* (1992) (originally published in 1990 as Report III (Part 4B) for the International Labour Conference, 77th Session, *General Survey of the Reports on the Merchant Shipping (Minimum Standards) Convention (No. 147), and the Merchant Shipping (Improvement of Standards) Recommendation (No. 155), 1976* [hereinafter *General Survey*]). The Committee of Experts on the Application of Conventions and Recommendations is the main supervisory body of the ILO. It is composed of 20 experts of recognized competence, completely independent of government, and appointed in their personal capacities. The Committee meets once a year in November-December in Geneva. See NICOLAS VALTICOS & GERALDO VON POTOBOSKY, *INTERNATIONAL LABOUR LAW* 284-86 (2d. ed. 1995).

38. *Id.*

substantial equivalence will then be, first, whether the state has demonstrated its respect for or acceptance of the main general goals of the Convention, and enacted laws or regulations which are conducive to their realization; and, if so, whether the effect of such laws or regulations is to ensure that in all material respects the subordinate goals of the Convention are achieved.³⁹ In practice, this means that, in the absence of ratification of a Convention listed in the Appendix by a member, national laws, and regulations adopted with regard to the appended Convention can be different in detail. Attention should be paid to the capacity of national provisions to realize the general goals laid down in the appended instruments.

Another obligation stemming from Convention No. 147 for ratifying member states is to

ensure effective jurisdiction or control over ships registered in their territory in respect of (i) safety standards, including standards of competency, hours of work and manning, prescribed by domestic legislation; (ii) social security measures prescribed by national laws or regulations; (iii) shipboard conditions of employment and shipboard living arrangements prescribed by domestic legislation or laid down by competent courts in a manner equally binding on the shipowners and seafarers concerned.⁴⁰

As was clarified by the Committee of Experts, a state's acceptance of "jurisdiction" must be manifested first by the competent judicial authorities taking jurisdiction over ships registered in the territory, whether or not those ships themselves are present in the territory, and second, by the administrative authorities exercising their control by whatever means are appropriate, but especially by inspection.⁴¹

39. General Survey, *supra* note 37, § 79, at 44. A 1983 memorandum by the International Labour Office in response to a request by the government of the United States, indicated that Article 2(a) of the Convention requires a ratifying state to satisfy itself that the general goals laid down in the instruments included in the Appendix to Convention No. 147 are respected. On the other hand, national laws and regulations can be different in detail and, as the government has correctly assumed [in its second question], it is not required that the ratifying state adhere to the precise terms of these instruments as long as their general goals are respected, except of course insofar as it has also ratified the Conventions concerned. ILO, Official Bulletin, Vol. LXVI, 1983, Series A, No. 3, at 144-45.

40. Convention No. 147, *supra* note 7, art. 2(b). In addition, under Article 2(c) of the Convention the ratifying member shall:

satisfy itself that measures for the effective control of other shipboard conditions of employment and living arrangements, where it has no effective jurisdiction, are agreed upon between shipowners or their organizations and seafarers' organizations constituted in accordance with the substantive provisions of the Freedom of Association and Protection of the Right to Organize Convention, 1948, and the Right to Organize and Collective Bargaining Convention, 1949.

Id. art. 2(c).

41. General Survey, *supra* note 37, § 256, at 135-36.

Moreover, an obligation is prescribed by Convention No. 147 in relation to the existence of adequate procedures for the "engagement of seafarers on ships registered in a member's territory and for the investigation of complaints arising in that connection."⁴² Adequate procedures must also be prescribed for the investigation of complaints made with regard to the engagement in a member's territory of seafarers of its own nationality on ships registered in a foreign country.⁴³ The ratifying member is also under the obligation to "ensure that seafarers employed on ships flying its flag are properly qualified or trained for the duties for which they are engaged;"⁴⁴ "to verify by inspection or other appropriate means that ships registered in its territory comply with applicable international labour Conventions in force which it has ratified, with the laws and regulations required" by Article 2(a) of the Convention and, "as may be appropriate under national law, with applicable collective agreements;"⁴⁵ and "to hold an official inquiry into any serious marine casualty involving ships registered in its territory."⁴⁶

Any Member which has ratified Convention No. 147 shall, insofar as practicable, advise its nationals on the possible problems of signing on a ship registered in a State which has not ratified the Convention, until it is satisfied that standards equivalent to those fixed by Convention No. 147 are being applied.⁴⁷

Convention No. 147 also addresses the situation in which a "Member which has ratified the Convention and in whose port a ship calls in the normal course of its business or for operational reasons receives a complaint or obtains evidence that the ship does not conform to the standards of the Convention."⁴⁸ In such a case, the member may prepare a report addressed to the government of the country in which the ship is registered, with a copy to the Director-General of the ILO, and may take measures necessary to rectify any conditions which are clearly hazardous to safety or health.⁴⁹ The ratifying member in whose port the above situation occurs is not obliged to take the steps prescribed by Convention No. 147 but has

42. Convention No. 147, *supra* note 7, art. 2(d)(i).

43. *Id.* art. 2(d)(ii).

44. *Id.* art. 2(e).

45. *Id.* art. 2(f).

46. *Id.* art. 2(g).

47. *Id.* art. 3.

48. *Id.* art. 4.

49. *Id.* art. 4, ¶ 1. "In taking such measures, the Member shall forthwith notify the nearest maritime, consular or diplomatic representative of the flag State and shall, if possible, have such representative present. It shall not unreasonably detain or delay the ship." *Id.* art. 4, ¶ 2. "For the purpose of Article 4, 'complaint' means information submitted by a member of the crew, a professional body, an association, a trade union or, generally, any person with an interest in the safety of the ship, including an interest in safety or health hazards to its crew." *Id.* art. 4, ¶ 3.

the discretionary power to do so,⁵⁰ which is a limitation on the effectiveness of the Convention.⁵¹

Two further points must be stressed. First, there is the success of Convention No. 147 due to the extension of control by ratifying port states to vessels calling at their ports regardless of the ratification of Convention No. 147 by the registration country. Second, the mechanism established by Article 4 of Convention No. 147 is activated on the occasion of inspections conducted under other international instruments or national provisions (IMO, etc).⁵²

Recommendation No. 155 calls upon each ILO Member to ensure that the provisions of the laws and regulations provided for in Article 2(a) of Convention No. 147 and the provisions of collective agreements that deal with shipboard conditions of employment and shipboard living arrangements are at least equivalent to the conventions or articles of conventions referred to in the Appendix to Convention No. 147.⁵³ In addition, steps should be taken to formulate laws, regulations, or appropriate collective agreements containing provisions at least equivalent to the provisions of the instruments referred to in the Appendix to the Recommendation.⁵⁴ Finally, each member that ratifies the Protocol of 1996 to Convention No. 147 must extend the list of conventions appearing in the Appendix to

50. As was pointed out by the Committee of Experts, there is thus no basis in Article 4(1) of Convention No. 147 for compelling port states to take action to control or inspect either foreign-registered ships in general or ships of any particular state or group of states (moreover the words "control" and "inspection" do not appear in Article 4). General Survey, *supra* note 37, § 264, at 141.

51. See generally Christodoulou-Varotsi, *supra* note 23.

52. The weakness of the mechanism in question has been underlined, based on the fact that the port state cannot take the initiative of conducting inspections on social and labor matters. See C. Batut, *Opinion on Merchant Seafarers Working and Employment Conditions*, in International Labour Organisation, *supra* note 2.

53. *Id.*

54. ILO, Officers' Competency Certificates Convention, C. 53, (1936) [hereinafter Convention No. 53]; ILO, Food and Catering (Ships' Crews) Convention, C. 68 (1946) available at www.ilo.org/ilolex/english/iloquery.htm [hereinafter Convention No. 68]; ILO, Social Security (Seafarers) Convention, C. 70 (1946) available at www.ilo.org/ilolex/english/iloquery.htm [hereinafter Convention No. 70]; ILO, Paid Vacations (Seafarers) Convention (Revised), C. 91 (1949) available at www.ilo.org/ilolex/english/iloquery.htm [hereinafter Convention No. 91]; ILO, Seafarers' Annual Leave with Pay Convention, C. 146 (1976) available at www.ilo.org/ilolex/english/iloquery.htm [hereinafter Convention No. 146]; ILO, Accommodation of Crews (Supplementary Provisions) Convention, C. 133 (1970) available at www.ilo.org/ilolex/english/iloquery.htm [hereinafter Convention No. 133]; ILO, Prevention of Accidents (Seafarers) Convention, C. 134 (1970) available at www.ilo.org/ilolex/english/iloquery.htm [hereinafter Convention No. 134]; ILO, Vocational Training (Seafarers) Recommendation, C. 137 (1970) available at www.ilo.org/ilolex/english/iloquery.htm [hereinafter Convention No. 137]; ILO, Workers' Representatives Convention, C. 135 (1971) available at www.ilo.org/ilolex/english/iloquery.htm [hereinafter Convention No. 135]. See generally ILO, DOCUMENT FOR GUIDANCE (1975).

Convention No. 147 to include the conventions in Part A of the Supplementary Appendix,⁵⁵ as well as any of the conventions listed in Part B of that Appendix that it accepts.⁵⁶

III. COMPARISON OF LABOR STANDARDS ON CYPRIOT AND GREEK SHIPS

A. Scope of Convention No. 147 in Cyprus and in Greece

The main acts implementing provisions of Convention No. 147 under Cypriot law⁵⁷ are the Merchant Shipping (Masters and Seamen) Law No. 46 of 1963 (as amended)⁵⁸ and Law No. 13(III) of 1995 ratifying the Merchant Shipping (Minimum Standards) Convention of 1976 (Convention No. 147).⁵⁹ In accordance with Law No. 13(III), unless law otherwise provides, the provisions of the Convention, of law, and of the regulations issued by virtue of this law are applied to all Cypriot sea-going ships wherever they might be, to all seamen working aboard such ships, and to all foreign seagoing ships approaching the ports of Cyprus, as well as to all seamen working on board.⁶⁰

The main acts implementing provisions of Convention No. 147 in Greece are the ratification Law No. 948 of 1979,⁶¹ the Code of Private

55. ILO, Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, App. A (1976). Part A of the Supplementary Appendix lists Convention No. 133, and the Seafarers' Hours of Work and the Manning of Ships Convention, C. 180 (1996) available at www.ilo.org/ilolex/english/iloquery.htm [hereinafter Convention No. 180]. *Id.*

56. *Id.* Part B of the Supplementary Appendix lists the Seafarers' Identity Documents Convention, C. 108 (1958), available at www.ilo.org/ilolex/english/iloquery.htm [hereinafter Convention No. 108], Convention, No. 135, the Health Protection and Medical Care (Seafarers) Convention, C. 164 (1987) available at www.ilo.org/ilolex/english/iloquery.htm [hereinafter Convention No. 164], and the Repatriation of Seafarers Convention (Revised), No. 166 (1987). *Id.*; see also Dmitri A. Pentsov, *Seafarers*, in ILO, INTERNATIONAL LABOUR STANDARDS: A GLOBAL APPROACH 544-56 (2001).

57. On Cyprus maritime law, see Anthony Madella, *Le Droit Maritime Chypriote* (1988) (unpublished doctoral thesis, Faculty of Law, Economics and Social Sciences, Aix-Marseille) (on file with the author) and CHRISTODOULOU-VAROTSI, *supra* note 8.

58. Official Gazette of the Republic of Cyprus [hereinafter Gazette], No. 259, Supp. I (June 25, 1963); Gazette No. 422, Supp. I (July 1, 1965); Gazette No. 663, Supp. I (July 5, 1968); Gazette, No. 719, Supp. I (Apr. 18, 1969); Gazette No. 1278, Supp. I (June 11, 1976); Gazette No. 2009, Supp. I (Nov. 16, 1976); Gazette No. 3210, Supp. I (Dec. 23, 1997); Gazette No. 3619, Supp. I(I) (July 5, 2002); Gazette No. 3670, Supp. I(I) (Dec. 31, 2002).

59. Gazette No. 2980, Supp. I, 112-21 (June 9, 1995).

60. Law No. 13(III), 1995, § 5 (Cyprus).

61. Gazette No. A 167 (July 25, 1979).

Maritime Law,⁶² and the Code of Public Maritime Law.⁶³ Both codes are applicable to "ships," and the provisions of Title III (The master), Title IV (The crew), Title VI (Affreightments), Title VII (Transfer of ownership of a ship as security for a debt"), Title XII (Collision between ships), Title XIII (Claims arising out of assistance at sea) and Title XIV (Marine insurance) of the Code of Private Maritime Law apply by analogy to any other floating structure.⁶⁴

The term "ship" within the meaning of the Code of Private Maritime Law refers to any vessel of not less than ten net register tons intended to navigate at sea by its own means of propulsion.⁶⁵ Similarly, under the Code of Public Maritime Law, a "ship" is any vessel intended to navigate on the water and involved in the transportation of passengers or goods, towage, salvage, fishing, scientific research, or navigation for pleasure or for other purposes.⁶⁶ Tugs in Greece are covered by the scope of Convention No. 147, because the aforementioned definitions of "ship" cover sea-going tugs.

As may be seen, there are no differences in the scope of application of Convention No. 147 in Cyprus and in Greece, because in both countries this Convention is applicable to the same types of ships. Therefore, from the point of view of eventual exclusion of certain types of seagoing ships from the application of standards prescribed by Convention No. 147, there are no obvious advantages to registering sea-going vessels in Cyprus over registering them in Greece.

62. Code of Private Maritime Law, Gazette No. A 32 (Feb. 28, 1958) (ratified by Law No. 3816 of 1958) [hereinafter Code of Private Maritime Law]. For an English translation of the Code, see T. KARATZAS & N. READY, *THE GREEK CODE OF PRIVATE MARITIME LAW* (1982). For a French translation of the Code, see ANTONIS ANTAPASSIS, *LES CODES MARITIMES GRECS* (1983). In Greek, about Greek maritime law and Greek maritime labor law, see generally ANTONIS ANTAPASSIS, *CODE OF PRIVATE MARITIME LAW AND RELEVANT PROVISIONS REFERRING TO THE CODE'S ARTICLES* (1999); DIMITRIOS N. KAMVISIS, *MARITIME LABOUR LAW* (1994); DIMITRIOS N. KAMVISIS, *PRIVATE MARITIME LAW* (1982); IOANNIS KOROTZIS, *MARITIME LABOUR LAW* (1990); *MARITIME LABOUR* (S. Lekeas ed., 2002); LOUKAS PRITSAS, *CODE OF PRIVATE MARITIME LAW* (Daidalos-I. Zacharopoulos ed., 2002). ALIKI KIANTOU-PAMBOUKI, *MARITIME LAW* (2003).

63. Code of Public Maritime Law, Gazette No. A 261 (Oct. 3, 1973) (ratified by Legislative Decree No. 187 of 1973) [hereinafter Code of Public Maritime Law]. For a French translation of the Code, see ANTAPASSIS, *LES CODES MARITIMES GRECS*, *supra* note 55.

64. Code of Private Maritime Law, *supra* note 62, art. 1, ¶ 2.

65. *Id.* art. 1.

66. *Id.* art. 3.

B. Safety Standards (Article 2, Paragraph (a)(i))

1. Qualifications

The standards of qualifications of officers are set forth by Convention No. 53.⁶⁷ Neither Greece nor Cyprus has ratified this Convention.⁶⁸ Thus, in accordance with Article 2(i)(a) of Convention No. 147 they must have laws or regulations on this matter ensuring that their provisions are substantially equivalent to Articles 3 and 4 of Convention No. 53.

Article 3 of Convention No. 53 prohibits any person filling the positions of master, skipper, navigator in charge of a watch, chief engineer, or engineer officer in charge of a watch who does not hold a certificate of competency to perform such duties, issued or approved by the public authority of the territory where the vessel is registered.⁶⁹ Exceptions to the provisions of this Article may be made only in cases of *force majeure*.⁷⁰ Article 4 would also deny a certificate

67. Convention No. 53, *supra* note 54.

68. Both Greece and Cyprus have ratified the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (as amended in 1995) (STCW 78/95), adopted by the IMO [hereinafter STCW Convention] available at http://www.imo.org/conventions/contents.asp?topic_id=2578&doc=677.

69. Convention No. 53, *supra* note 54, art. 3, ¶ 1.

70. Id. art. 3, ¶ 2. While the Convention itself does not define the term "*force majeure*," some guidance with respect to its meaning can be drawn from the preparatory work. Analyzing the responses of various Governments to the previously submitted questionnaire, the 1931 preparatory report indicated that the draft convention should expressly provide for the possibility of exceptions in cases of the kind referred to by the French government (where at the moment of sailing a vessel is for some sudden and unforeseen cause deprived of the services of a certificated person already engaged and a certificated substitute is not available within sufficient time, or where owing to illness or accident during the voyage the duties of a certificated person have to be taken over for the time being by a person not possessing the requisite certificate). The report further indicated that there can hardly be any question of giving any enumeration of the cases which might be taken into account or of endeavoring to define them closely, and that in effect the cases contemplated can perhaps be reduced to what, in the conditions under which shipping is carried out, would amount to circumstances of *force majeure* and would generally be confined to circumstances arising after the voyage had begun. See ILO, THE MINIMUM REQUIREMENT OF PROFESSIONAL CAPACITY IN THE CASE OF CAPTAINS, NAVIGATING AND ENGINEER OFFICERS IN CHARGE OF WATCHES ON BOARD MERCHANT SHIPS, Report IV, 68-69, ILC 21st Sess. (1931). Thus, despite the fact that the report did not define the meaning of *force majeure*, it gave two examples thereof. Further guidance can be drawn from the interpretation of several ILO conventions, including the Night Work (Women) Convention, 1919 (No. 4), published in 1951, indicating that the case of *force majeure*, referred to in Article 4(a) of Convention No. 4, involves: (i) the impossibility to foresee it; and (ii) non-recurring character. Interpretation of the Decision of the International Labour Conference, concerning Night Work (Women) Convention, 1919 (No. 4), Night Work of Young Persons (Industry) Convention, 1919 (No. 6), Night Work (Women) Convention (Revised), 1948 (No. 89), Night Work of Young Persons (Industry)

of competence to any person who does not meet minimum age and experience requirements, and who has not passed the appropriate examinations.⁷¹ The Convention requires that national laws or regulations prescribe these minimums and provide for the organization and supervision by the competent authority of one or more examinations for the purpose of testing whether candidates for competency certificates possess the qualifications necessary for performing the duties corresponding to the certificates for which they are candidates.⁷² Also, any member of the organization may, within three years of ratification, issue competency certificates to persons who have not passed the examinations but who have in fact had sufficient practical experience corresponding to the certificate in question and who have no record of any serious technical error against them.⁷³

As was pointed out by the Committee of Experts, substantial equivalence to these articles essentially involves a licensing system which is compulsory (Article 3) and in which both experience—leading to demonstrable ability on ship—and the examination of qualifications are required (Article 4).⁷⁴ Furthermore, as indicated in the footnote to the Appendix to Convention No. 147, in cases where the established licensing system or certification structure of a state would be prejudiced by problems arising from strict adherence to the relevant standards of Convention No. 53, the principle of substantial equivalence is designed to be applied so that there will be no conflict with that state's established arrangements for certification.⁷⁵

As concerns the substantial equivalence in Cypriot legislation, in accordance with the Merchant Shipping (Masters and Seamen) Law 1963-2002,⁷⁶ the personnel of a Cypriot ship⁷⁷ must consist of a master and seamen who are holders of both certificates of maritime

Convention (Revised), 1948 (No. 90). ILO Official Bulletin, Vol. XXXIV, No. 3, at 246-48 (1951).

71. Convention No. 53, *supra* note 54, art. 4, ¶ 1.

72. *Id.* art. 4, ¶ 2.

73. *Id.* art. 4, ¶ 3.

74. General Survey, *supra* note 37, at 49.

75. Convention No. 147, *supra* note 7, App.

76. Merchant Shipping (Masters and Seamen) Law of 1963-2002, No. 46, (1963), § 3(1), as amended by No. 3, § 85 (1984) (Cyprus) [hereinafter Cyprus Masters and Seamen Law].

77. According to the Merchant Shipping (Registration of Ships, Sales and Mortgages) Law 1963-1996 and, more precisely, according to Section 5 of Law No. 45 of 1963, a Cyprus ship is a ship of which more than half of the shares are owned (a) by a Cypriot, or (b) by a corporation established and operating under and in accordance with the laws of Cyprus and whose registered office is in Cyprus; or (c) if specially authorized by a decision of the Council of Ministers, by a corporation incorporated in a foreign country, but where the controlling interest is held by Cypriots. The Merchant Shipping (Registration of Ships, Sales and Mortgages) Law of 1963 (Law 45/63), Gazette No. 259, Supp. I (1965) (Cyprus) [hereinafter Cyprus Registration of Ships Law].

competency and certificates of any specialized training required as well as of other professionals who are not seamen but are holders of special licenses to practice their professions and who are employed with the approval of the appropriate authority. Every person serving on a Cypriot ship must be furnished with the appropriate certificates for such a position, issued and endorsed in accordance with the provisions prescribed by Cypriot legislation.⁷⁸

The Cypriot legislation is not substantially equivalent with respect to the possibility of granting exemptions in the event of "*force majeure*." Under Law 109(I)/2000, in circumstances of exceptional necessity, the competent authority, at the company's request—if in its opinion this does not cause danger to persons, property, or the environment—may issue a dispensation permitting a specified seafarer to serve in a specified ship for a specified period not exceeding six months in the capacity of chief mate or second engineer officer, for which he does not hold the appropriate certificate, provided that that person is adequately qualified to fill the vacant post without risk (in the judgment of the competent authority). Dispensations are not granted for the capacity of radio officer or radiotelephone operator, except as provided by the relevant radio communication regulations.⁷⁹ Dispensations are not granted to a master or chief engineer officer except in circumstances of *force majeure* and then only for the shortest possible period. Any dispensation granted for a post must be granted only to a person properly certified to fill the post immediately below the post that he holds.⁸⁰

These provisions of Law 109(I)/2000 are not substantially equivalent to Article 3 because they do not list the navigating officer in charge of a watch and the engineer officer in charge of a watch among those officers to whom the dispensation could be granted only in cases of *force majeure*. Thus, it appears that under Cypriot law, exceptions to the certification requirements of Convention No. 53 could be granted to navigating officers in charge of a watch and engineer officers in charge of a watch not only in cases of *force majeure* but also in "circumstances of exceptional necessity," which is broader than cases of "*force majeure*."⁸¹

78. The Merchant Shipping (Issue and Recognition of Certificates and Marine Training) Law of 2000 (Law 109(I)/2000), Gazette No. 3419, Supp. I(I) (July 14, 2000) (Cyprus) [hereinafter Cyprus Certificates and Training Law].

79. Id. § 7, ¶ 1.

80. Id. § 7, ¶¶ 2-3.

81. Any case of *force majeure* can be regarded as "circumstances of exceptional necessity," but not all circumstances of exceptional necessity amount to the level of *force majeure*. The major distinction is whether the consequences can be overcome by means at human disposal. Apparently, the unexpected absence of a certificated navigating officer in charge of a watch could be overcome by using air transportation,

Law No. 13(III) of 1995, in regulating the conditions of obtaining certificates of competency, dictates that no person has the right to obtain the certificate of seamen unless:

(a) this person has already reached the minimum age limit required for the issue of this certificate; (b) the duration of his professional experience is equal to or longer than the minimum limit prescribed for the issue of the certificate; and (c) this person has passed the examinations organized and supervised by the Competent Authority for the purpose of checking whether he possesses the qualifications necessary for performing the duties corresponding to the certificate for which he is a candidate.⁸²

Cypriot legislation also provides for a minimum age and minimum period of professional experience for each grade of competency certificates,⁸³ including certificates for personnel in charge of a navigational watch, certificates for personnel in charge of an engineering watch, and certificates for ratings forming part of a navigational or an engineering watch.⁸⁴ Cypriot legislation also requires minimum periods of professional experience to obtain various grades of certificates.⁸⁵ Finally, provisions laid down in Cypriot legislation ensure organization and supervision⁸⁶ by the competent authority of examinations related to the grant of certificates of competency.⁸⁷ Thus, it seems that the provisions of the Cypriot legislation are substantially equivalent to Articles 3 and 4 of Convention No. 53, except for the possibility of granting exceptions from certification requirements to navigating officers in charge of a

which makes it possible to reach any seaport within a reasonable time (probably in less than 24 hours).

82. Law No. 13(III), 1995, § 29 (Cyprus).

83. Convention No. 53, *supra* note 67, art. 4, ¶ 2.

84. Under Section 9 of the Cyprus Certificates and Training Law the certificates for personnel in charge of a navigational watch may be divided into certificate of Master, certificate of chief mate and certificate of officer in charge of a navigational watch. Under Section 10, certificates for personnel in charge of an engineering watch may be divided into certificate of chief engineer, certificate of second engineer and certificate of officer in charge of an engineering watch in a manned engine-room or designated duty engineers in a periodically unmanned engine-room. Under Section 11, certificates for ratings forming part of a navigational or engineering watch may be divided into certificate for rating forming part of a navigational watch and certificate for rating forming part of a watch in a manned engine-room or designated to perform duties in a periodically unmanned engine-room. Cyprus Certificates and Training Law, *supra* note 78, §§ 9, 11.

85. See Section 12 of the Cyprus Certificates and Training Law for masters, Section 13 for chief mates, Section 14 for officers in charge of a navigational watch, section 15 for chief engineer officers, Section 16 for second engineer officer, Section 17 for officer in charge of an engineering watch, Section 18 for rating forming part of a navigational watch, Section 19 for ratings forming part of a watch in a manned engine-room or designated to perform duties in a periodically unmanned engine-room. *Id.* §§ 12-19.

86. Cyprus Certificates and Training Law, *supra* note 78, §§ 31, 46-49.

87. Convention No. 53, *supra* note 54, art. 4, ¶ 2(b).

watch and engineer officers in charge of a watch in "circumstances of exceptional necessity."

Greece applies Convention No. 53 through the compulsory licensing system of officers employed on Greek ships prescribed by Sections 73-86 of the Code of Public Maritime Law and by several other provisions, notably Presidential Decree No. 435 of 1978.⁸⁸ Under the Code, in order to obtain a diploma or a certificate of professional capacity of a seaman, it is necessary to reach the age of twenty years, unless one has successfully completed his studies at merchant marine schools in the public sector or at other recognized schools, and has the right to obtain a diploma or a certificate of professional capacity upon reaching the age of nineteen years. At the same time, in the two preceding cases the candidate should not be more than sixty years of age.⁸⁹

Presidential Decree No. 435 of 1978 prescribes the minimum professional experience required of an officer in charge of a watch⁹⁰ and of an engineer officer in charge of a watch.⁹¹ The Decree also requires that candidates who wish to obtain the competency certificate in order to perform duties of officer and engineer officer in

88. Presidential Decree No. 435 of 1978 concerning the competency certificates of navigating officer in charge of a watch and engineer officer in charge of a watch. Presidential Decree No. 435, Official Gazette A 9 (June 5, 1978) (Greece). For more information on the compulsory licensing system of maritime labor in Greece, see KOROTZIS, *supra* note 62, at 91.

89. Code of Public Maritime Law, *supra* note 63, art. 76, ¶ 1(b).

90. In accordance with paragraph 1 of Article 2 of Decree No. 435 of 1978, the qualifications necessary for obtaining the competency certificate of an officer in charge of a watch are: (a) for holders of certificates of public schools of the Merchant Marine, six months' sea service after the completion of studies, with specialization in the navigation of ships of more than 500 tons; (b) for Captains of the Merchant Marine who are in a possession of a certificate of a private school, twelve months' sea service after the completion of studies, with specialization in the navigation of ships of more than 500 tons; (c) for holders of certificates of a maritime college or maritime school (six years of studies), eighteen months' sea service after the completion of studies at such college or school, with the specialization in the navigation of ships of more than 500 tons; and (d) for holders of certificates of a school (six years of studies) or a regular college, twenty-four months' sea service after the completion of studies, with the specialization in the navigation of ships of more than 500 tons. Presidential Decree No. 435, § 2, ¶ 1.

91. In accordance with paragraph 2 of Article 2 of Decree 435 of 1978, the qualifications necessary for obtaining a competency certificate of an engineer officer in charge of a watch are: (a) for holders of certificates of public schools of the Merchant Marine, six months' sea service after the completion of studies, with specialization as a mechanical engineer on board a ship of any type equipped with a steam engine or an internal combustion engine of 300 horse power; (b) for holders of certificates of private schools of mechanics of the Merchant Marine, eighteen months' sea service after the completion of studies, with specialization as a mechanical engineer on board a ship of any type equipped with a steam engine or an internal combustion engine of 300 horse power. *Id.* § 2, ¶ 2.

charge of a watch pass certain examinations⁹² and prescribes the content of these examinations.⁹³

The legislation of Greece does not give full effect to the requirements of the Convention, however, in granting exemptions in case of "*force majeure*." Under Presidential Decree No. 455 of 1983,⁹⁴ in the event of exceptional necessity, seafarers may be granted permits of engagement which give them the right to be engaged on a specific vessel for a specific period, not longer than six months.⁹⁵ Such exceptional permits of engagement must not be granted to the Master and Chief Engineer,⁹⁶ or to the radio officer or radiotelephone operator except as provided by the relevant international regulations in force.⁹⁷ Since Presidential Decree No. 455 does not include the navigating officer in charge of a watch and the engineer officer in charge of a watch among those seafarers to whom the dispensation could be granted only in cases of *force majeure*, it appears that, under the Decree, dispensations to these two groups of officers could be granted not only in cases of *force majeure*, but also in the "event of exceptional necessity." Since the scope of the term "event of exceptional necessity" is broader than that of the term "case of *force majeure*," these provisions of the Presidential Decree are contrary to Article 3, paragraph 2 of the Convention.

A comparison of the standards of qualifications of officers under Cypriot and Greek law allows us to draw the conclusion that, from the point of view of these standards, shipowners would not gain advantages from registering their ships in Cyprus instead of in Greece. Neither the legislation of Cyprus nor the legislation of Greece fully complies with the requirements of Article 3, paragraph 2 of Convention No. 53, and in both countries shipowners would be able to obtain dispensations of navigating officers in charge of a watch and engineer officers in charge of a watch not only in cases of *force majeure*, but also in "circumstances of exceptional necessity" or "events of exceptional necessity."

The possibility of granting dispensations of navigating officers in charge of a watch and engineer officers in charge of a watch in cases not limited to those of *force majeure*, which is contrary to Convention No. 53, exists not only under the legislation of Cyprus and Greece, but also under the legislation of several other countries bound by Convention No. 147, who are, therefore, obliged to apply Articles 3 and 4 of Convention No. 53 on the basis of the principle of

92. *Id.* § 3, ¶ 1.

93. *Id.* § 4.

94. Presidential Decree No. 455, Official Gazette No. A 171 (Nov. 21, 1983) (Greece) (concerning the exceptional grant of permits of engagement to seafarers).

95. *Id.* § 1, ¶ 1.

96. *Id.* § 1, ¶ 2.

97. *Id.* § 1, ¶ 3.

“substantial equivalence.” For example, in Azerbaijan, under the Regulations on Ranks of Command Personnel of Sea-Going Ships,⁹⁸ the dispensation to a navigating officer in charge of a watch and an engineer officer in charge of a watch may be granted in “exceptional cases” which are not limited to cases of *force majeure*.⁹⁹ In Barbados, under Section 92(1) of the Shipping Act,¹⁰⁰ the Minister may exempt any ship or class of ships from the requirements of any regulation under Section 86 of the Act and any such exemption given under the section may be confined to a particular period or to one or more particular voyages.¹⁰¹ Furthermore, anytime it appears that a ship may be unreasonably delayed because the owner is unable to provide officers in accordance with regulations made under Section 86, and the Minister is satisfied that (a) the owner has exercised due diligence to provide officers and (b) the ship is properly and efficiently manned for the voyage to be undertaken, the Minister may, upon written application by the owner, exempt that ship from any of the provisions of regulations.¹⁰²

In the Hong Kong Special Administrative Region of China under the Merchant Shipping (Seafarers) (Certification of Officers) Regulation,¹⁰³ the authority may grant exemptions from any or all of its provisions when it sees fit and may, with reasonable notice, also alter or cancel any such exemption.¹⁰⁴ In Sweden, under Ship Safety Ordinance (1988:594)¹⁰⁵ and the Ordinance Concerning the

98. Regulations on Ranks of Command Personnel of Sea-Going Ships, approved by Council of Ministers of the USSR, Res. No. 839, Aug. 25, 1983.

99. *Id.* § 4, ¶¶ 1-3.

100. Shipping Act, 1994-15, Supplement to Official Gazette (May 12, 1994) (Barbados).

101. In accordance with Section 86(1) of the Shipping Act, subject to subsection (2), the Minister may make regulations

(a) requiring ships to carry such number of duly qualified officers of any description, qualified doctors and qualified cooks and such number of other qualified seamen of any description as may be specified in the regulations; (b) prescribing standards of competency to be attained and other conditions to be satisfied, subject to any exceptions allowed by or under the regulations, by officers and other seamen of any description in order to be qualified for the purpose of this section; and (c) requiring that in all cases a ship shall be under the charge of a properly certified master, and that watches at sea, and in port are always kept by appropriately qualified officers.

Id. § 86(1).

102. *Id.* § 92(2).

103. Merchant Shipping (Seafarers) (Certification of Officers) Regulation, 1990, Gazette L.N. 372 of 1990, Supp. No. 2 (No. 21/1992) (H.K.), available at <http://www.justice.gov.hk/blis.nsf> (last visited Mar. 21, 2004).

104. *Id.* § 3(2).

105. Fartygsäkerhetsförordning (Ship Safety Ordinance), SVENSK FÖRFATTNINGSSAMLING (Swedish Official Journal), 1988:594.

Competency of Seafarers (1998:965),¹⁰⁶ exceptions from the requirements of competency can be granted by the authority which issued the safe manning decision of the manning regulations—generally the Swedish Maritime Administration—when there are extraordinary reasons (*synnerliga skäl*) and when there is no reason to believe that this would be hazardous to safety if the ship were used in coastal trade or more extended trade, but only for a period not longer than six months.

In the Russian Federation, under the Regulations on Certification of the Members of Crews of Sea-Going Ships,¹⁰⁷ the dispensation to hold the post of master or chief engineer officer is granted only in emergency circumstances and then only for the shortest possible period.¹⁰⁸ Furthermore, under the same regulations, the dispensation to hold the post of navigating officer in charge of a watch or engineer officer in charge of watch could be granted in *exceptional cases* (provided that this does not endanger persons, property, or the environment) for a period not exceeding six months.¹⁰⁹ In Ukraine, the conditions of issuance of competency certificates are still governed by Regulations on Ranks of Command Personnel of Sea-Going Ships, approved by Order No. 276 of the Ministry of Maritime Fleet of the USSR, December 29, 1983.¹¹⁰ Since this Order was issued pursuant to Resolution No. 839 of the Council of Ministers of the USSR, the conditions of issuance of the privileged permits under the Regulations on Ranks are identical to those under the Regulations on Ranks of Command Personnel. While for the functions of master and chief engineer, a privileged permit may only be granted in cases of *force majeure* and for the shortest possible period¹¹¹ to a navigating officer in charge of a watch and an engineer

106. Förordning om behörigheter för sjöpersonal (Ordinance Concerning the Competency of Seafarers), SVENSK FÖRFATTNINGSSAMLING (Swedish Official Journal), 1998:965.

107. Regulations on Certification of the Members of Crews of Sea-Going Ships, *Sobr. Zakonod. RF*, 1999, No. 33, Item 4119 (Res. No. 900).

108. *Id.* § 11. It appears that the certification requirements have even broadened the scope of possible exceptions from the certification requirements as compared to the Regulations on Ranks, approved by Resolution No. 839 of the Council of Ministers of the USSR, dated August 25, 1983, since under the Regulations on Ranks the privileged permits could have been granted in exceptional cases only to a navigating officer in charge of a watch and an engineer officer in charge of a watch, while under Regulations on Certification the existence of circumstances of *force majeure* is not required even for granting dispensations to master or skipper, and chief engineer.

109. *Id.* § 11.

110. Order No. 276 of the Ministry of Maritime Fleet of the USSR "On the Approval of the Regulations on Ranks of Command Personnel of Sea-Going Ships and Rules of Issuance of Diplomas and Certificates of Competency for Ranks of Command and Ordinary Personnel of Sea-Going Ships," Dec. 29, 1983 (printed separately).

111. Regulations on Ranks of Command Personnel of Sea-Going Ships, approved by Council of Ministers of the USSR, Res. No. 839, § 5, pt. 4, Aug. 25, 1983.

officer in charge of a watch, such a privileged permit may be granted in "exceptional cases" which are not limited to cases of *force majeure*.

The origins of this problem of non-compliance with Article 3, paragraph 2 of Convention No. 53 could be traced to the fundamental difference between Convention No. 53 and the IMO Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW Convention) as concerns the conditions for granting dispensation. As far as the dispensation of master and chief engineer are concerned, under Convention No. 53 and the STCW Convention, these conditions are practically the same.¹¹² While under Article 3, paragraph 2 the dispensation of master and chief engineer could be granted in circumstances of *force majeure*, under Article VIII of the STCW Convention the dispensation of master and chief engineer could be granted in circumstances of *force majeure* and then only for the shortest possible period.¹¹³ However, as concerns the dispensation of a navigating officer in charge of a watch and an engineering officer in charge of a watch, under Convention No. 53 it could be granted only in circumstances of *force majeure*, whereas under the STCW Convention it could be granted in circumstances of *exceptional necessity*, "if in the opinion of the Administration this does not cause danger to persons, property or the environment, and for a specified

112. Article VIII "Dispensation" of the STCW Convention reads as follows:

(1) In circumstances of exceptional necessity, Administrations, if in their opinion this does not cause danger to persons, property or the environment, may issue a dispensation permitting a specified seafarer to serve in a specified ship for a specified period not exceeding six months in a capacity, other than that of radio officer or radiotelephone operator, except as provided by the relevant Radio Regulations, for which he does not hold the appropriate certificate, provided that the person to whom the dispensation is issued shall be adequately qualified to fill the vacant post in a safe manner, to the satisfaction of the Administration. However, dispensations shall not be granted to master or chief engineer except in circumstances of *force majeure* and then only for the shortest possible period. (2) Any dispensation granted for a post shall be granted only to a person properly certificated to fill the post immediately below. Where certification of the post below is not required by the Convention, a dispensation may be issued to a person whose qualifications and experience are, in the opinion of the Administration, of a clear equivalence to the requirements for the post to be filled, provided that, if such a person holds no appropriate certificate, he shall be required to pass a test accepted by the Administration as demonstrating that such a dispensation may safely be issued. In addition, Administrations shall ensure that the post in question is filled by the holder of an appropriate certificate as soon as possible. (3) Parties shall, as soon as possible, after 1 January of each year, send a report to the Secretary-General giving information as to the total number of dispensations in respect of each capacity for which a certificate is required that have been issued during the year to seagoing ships, together with information as to the numbers of those ships above and below 1,600 gross register tons respectively.

STCW Convention, *supra* note 68, art. VIII (1978).

113. *Id.*

period not exceeding six months." Apparently, the conditions for granting dispensations prescribed in the legislation of Cyprus and Greece (as well as of other above-mentioned countries) are based not on the formulation of Article 3, paragraph 2 of Convention No. 53, but rather on that of Article VIII of the STCW Convention.

2. Standards for Hours of Work

Neither Convention No 147 nor any of the conventions listed in its Appendix establish by themselves any specific standards for working hours. Therefore, the evaluation of the compliance of national legislation with the requirements of Article 2(a) with respect to work standards would be primarily based upon indications from the Committee of Experts. According to the Committee, such requirements may be satisfied, at a minimum, by legislation laying down, in the light of safety demands, a reasonable normal daily limit on hours of work at sea for all officers and ratings; and the scope of their application should not be limited to watchkeepers.¹¹⁴

The standards for hours of work on Cypriot ships are laid down in Part III of the Merchant Shipping (Safe Manning, Hours of Work and Watchkeeping) Law of 2000 (Law No. 105(I)/2000),¹¹⁵ which is applicable to all Cypriot ships.¹¹⁶ Under this law, subject to exceptions in cases of emergencies,¹¹⁷ the company¹¹⁸ has a duty and is obliged to ensure that as far as it is reasonably practicable, neither the master nor the seafarer work more hours than is safe in relation to the ship or more than required for the good performance of their duties.¹¹⁹ The master has the same obligation in relation to the seafarers working on the ship.¹²⁰

Hours of rest in connection with the watchkeeping system are also prescribed by Law No. 105(I)/2000. Every company has the duty to ensure that at all times on its ships, there exists a watchkeeping system, which is arranged in such a manner that the efficiency of all watchkeeping personnel is not impaired by reason of fatigue. Duties

114. General Survey, *supra* note 37, § 96, at 54.

115. Gazette No. 3419, Supp. I(I) (July 14, 2000) (Cyprus).

116. Law No. 105(I)/2000 § 25. The term "Cyprus ship" within the context of this Law has the meaning assigned to it by Section 5 of the Cyprus Registration of Ships Law of 1963 to 1996. See Cyprus Registration of Ships Law, *supra* note 77, § 5.

117. Law No. 105(I)/2000 § 30.

118. According to Law No. 105(I)/2000 § 2 the term "company" includes a physical entity and in relation to the ship it means the owner of the ship or any other organization or person such as the manager, or the bareboat charterer, who has assumed the responsibility for the operation of the ship from the shipowner and who, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed on the company by the Regulations which are annexed to the STCW Convention. *Id.* § 2.

119. *Id.* § 26(1).

120. *Id.* § 26(2).

must be organized in such a way that those keeping the first watch at the commencement of the voyage and those keeping subsequent watches are sufficiently rested and otherwise fit for duty.¹²¹ In addition, every company is obliged to ensure that the watch keeping system on its ships is in compliance with the following provisions:

(a) all persons assigned with duties of an officer in charge of a watch and all ratings forming part of a watch shall be provided with a minimum of ten hours of rest in any twenty-four hour period; (b) the hours of rest may be divided into no more than two periods, one of which shall be at least six hours in length and (c) notwithstanding the provisions of the abovementioned paragraphs (a) and (b), the minimum period of ten hours which is provided in them may be reduced to a period of at least six consecutive hours, provided that any such reduction shall not extend beyond two days and not less than seventy hours of rest in each seven day period is ensured.¹²²

It is the company's responsibility to establish and maintain the necessary policies and procedures which will ensure correct compliance with the provisions under (a), (b), and (c).¹²³

It should be noted each company is responsible for making a table of the watchkeeping arrangements for each of its ships.¹²⁴ The table in question, which must be posted in an easily accessible place on the ship for the information of seamen, must contain at least the maximum hours of work allowed by national legislation and the schedule of service at sea and in port for every watchkeeping position. It is the master's duty at all times to maintain the table in question and, as far as reasonably possible, to ensure that the hours of work specified therein are not exceeded.¹²⁵

A record of hours of work and hours of rest (also prescribed by Law No. 105(I)/2000) must be kept by the master, under the responsibility of the company. This record should register all data regarding hours of work and hours of rest of seamen taking part in watchkeeping, any deviation from the watchkeeping table, and reasons for any deviation.¹²⁶ The company is also obliged to maintain copies of the table and record for inspection purposes for a period of at least five years from the date the table was introduced.¹²⁷

As mentioned above, exceptions to the foregoing provisions which deal with emergencies are also laid down in this law.¹²⁸ The requirements for rest periods and for watch-keeping arrangements need not be maintained in the event of an emergency (especially when

121. *Id.* § 27(1).

122. *Id.* § 27(2).

123. *Id.* § 27(3).

124. *Id.* § 28.

125. *Id.*

126. *Id.* § 29, ¶¶ 1-2.

127. *Id.* § 29(3).

128. *Id.* § 30.

it would threaten the ship's safety, human life, or the environment), drill, or other operational situations of an overriding nature.

Despite all this, in practice, specific limits on working time may also be prescribed in collective agreements. Collective agreements, in the Cypriot legal order, do not constitute a compulsory source of law. They do not have legislative force.¹²⁹ Consequently, not all ships flying the Cypriot flag are subject to them. Shipowners may decide whether to participate in the making of collective agreements, as well as whether to proceed with their application.

The issue of standards for hours of work on Greek ships is addressed in the Code of Public Maritime Law and the Regulations on work of seamen on cargo ships of 800 tons or more which was approved by Royal Decree No. 806 of 1970.¹³⁰ Moreover, Greece has ratified the Seafarers' Hours of Work and the Manning of Ships Convention of 1996 (Convention No. 180).¹³¹ Under the Code of Public Maritime Law, the period of time during which the crew members perform any work on board a vessel or for a vessel in accordance with the regulations of work on merchant vessels, collective agreements, or the orders of their superiors is considered working time.¹³² In accordance with the Code, the maximum limit on working time for crew members on a vessel during the days of preparation for leaving the port or berthing is to be determined by presidential decree unless the regulations on work or any collective labor agreements provide otherwise.¹³³ The limits on additional working hours that exceed the normal working hours and that are usually ordered by the master of the ship based on his judgment are also to be determined by presidential decree unless regulations on work or collective labor agreements provide otherwise.¹³⁴ In practice, the specific limits on working time are prescribed in collective agreements. The maximum limits on additional working time, as an exception, can be exceeded in the following circumstances:

- (a) in case of extreme necessity, affecting the safety of the ship, the safety of passengers and cargo, or the rendering of assistance to other ships and persons in danger; (b) during salvage exercises, fire drills, or

129. See Madella, *supra* note 57, at 354. It is to be noted that under Section 12(6) of the Cyprus Masters and Seamen Law, the agreement with the crew may contain a reference to or incorporate the provisions of a collective agreement. Cyprus Masters and Seamen Law, *supra* note 76, § 12(6).

130. Royal Decree No. 806 of 1970 concerning the Regulations on work of seamen on board cargo ships of 800 tons or more, Official Gazette No. A 275 (Dec. 16, 1970) (Greece).

131. Law No. 2974 of 2001, Official Gazette No. A 293 (Dec. 31, 2001) (Greece). Convention No. 180 came into force for Greece on Nov. 14, 2002. For a detailed discussion of the contents of Convention No. 180, see Pentsov, *supra* note 56, at 577-80.

132. Code of Public Maritime Law, *supra* note 63, art. 95.

133. *Id.* art. 96.

134. *Id.* art. 97.

abandonment of the ship and, in general, during training provided for by the International Convention for the Safety of Life at Sea, currently in force; and (c) other exceptional cases defined by the Presidential Decree.¹³⁵

The existence of the conditions for the application of the above provision are to be determined by the master of the ship, based on his own judgment, and must be entered into the ship's logbook.¹³⁶

The comparison of standards for hours of work on Cypriot and Greek ships reveals that the legislation of Cyprus is more advantageous for shipowners to the extent that collective agreements have a limited application. While, in Cyprus, a shipowner without recourse to a collective agreement has unilateral discretion over the matter without involvement of seafarers, in Greece, the matter is settled by collective agreements, which constitute an obligatory source of law and are subject to uniform application on Greek ships¹³⁷

The absence of involvement of seafarers in the process of determination of appropriate limits on working hours on Cypriot ships to which no collective agreements are applicable enables shipowners to use greater discretion in prescribing these standards. As far as the standards are concerned, shipowners registering their vessels in Cyprus obtain a priori a competitive advantage over those registering their vessels in Greece, as the latter are required to involve seafarers in the process of the determination of hours of work through collective agreements, which are a compulsory source of law there.

3. Standards of Manning

The absence of any specific standards of manning either in Convention No. 147 or in the Conventions listed in its Appendix makes it necessary once again to refer to the General Survey by the Committee of Experts. According to this, the essential requirement of Article 2(a)(i) of Convention No. 147 with respect to manning standards is that ships be sufficiently manned to ensure the safety of life on board.¹³⁸

Closely related to manning standards are standards determining the national composition of the crew. Unlike manning standards, these standards are outside the scope of Convention No. 147 and of the conventions listed in its Appendix. Similarly to the standards of manning, they affect the cost of operating the ship, though in a different way. While the legal requirement to have a certain number of duly qualified officers or ratings affects the overall size of the crew

135. *Id.* art. 98.

136. *Id.*

137. See KAMVISIS, *MARITIME LABOUR LAW*, *supra* note 62, at 450.

138. General Survey, *supra* note 37, § 99, at 56.

(the total number of wage-earners on board), the legal requirement to have a crew (or a certain part of a crew) of a certain nationality indirectly affects the amount of wages paid to the crew because it may preclude shipowners from recruiting seafarers from developing countries whose wage might be significantly lower than those paid to seafarers from the country of the ship's registration.

In Cyprus, the standards of manning are laid down in Part II of Law No. 105(I)/2000. These provisions apply in principle to all Cypriot ships.¹³⁹ Under this law, every company¹⁴⁰ must ensure that every seaman assigned to any of its ships holds an appropriate certificate with respect to any function he is to perform on that ship and that every seaman on any of its ships has had training specified in the Merchant Shipping (Issue and Recognition of Certificates and Marine Training) Law of 2000 and holds the relevant certificates documenting his training, according to the duties to which he is assigned.¹⁴¹ Moreover, the company is responsible, before employing a new crew member, for verifying the authenticity of his professional certificates and training documentation.¹⁴²

Appropriate procedures to be established by the company are also provided to ensure that a registry with all the documentation and dates relevant to seafarers employed on the company's ships are accessible for inspection.¹⁴³ The law also prescribes the content of the registry.¹⁴⁴ A registry kept by the company and copies of all documentation kept in the registry on the ship are also provided for.¹⁴⁵

The company must also ensure that seafarers, on being assigned to work on any of its ships, are familiarized with their specific duties and with all ship arrangements, installations, equipment, procedures, and ship characteristics that are relevant to their routine or emergency duties.¹⁴⁶ In the case of seafarers newly employed on the ship, the company must issue written instructions to the master of the ship, setting forth the policies and the procedures which must be followed to ensure that all seafarers in question are given a reasonable opportunity to become familiar with the shipboard equipment, operating procedures, and other arrangements needed for the proper performance of their duties before being assigned to those

139. Law No. 105(I)/2000 § 7 (Cyprus). As regards the definition of Cyprus "ships" under Law No. 105(I)/2000, see *supra* note 116.

140. As regards the definition of the term "company", see *supra* note 119.

141. Law No. 105(I)/2000 § 8.

142. *Id.*

143. *Id.* § 9.

144. *Id.* § 9(2).

145. *Id.* § 9(3).

146. *Id.* § 10.

duties.¹⁴⁷ The law provides for the policies and procedures referred to above.¹⁴⁸

In addition, companies must familiarize all persons employed or engaged on company ships with personal survival techniques.¹⁴⁹ Effective coordination in emergency situations must also be ensured, in the sense that the company must ensure that the crew on its ships can effectively coordinate its activities in an emergency situation and perform duties vital to the safety of those on board and the prevention or mitigation of pollution.¹⁵⁰ Moreover, every company has a duty to ensure that the crew members of its ships are able to communicate by use of a common language in case of an emergency situation.¹⁵¹

Furthermore, under Law 105(I)/2000, every company is obliged to ensure that ships are manned in accordance with the provisions it prescribes concerning the composition of the crewmembers and that each seafarer assigned to any of its ships holds an appropriate certificate with respect to the duties assigned to him.¹⁵² The competent authority determines the organic composition of ships after a relevant application by the company and issues a document of safe manning of the ship.¹⁵³

With respect to its passenger ships, a company must submit for approval an emergency and evacuation plan (Muster List) in the event of danger. This plan will inform decisions regarding the number of crew members required to assist passengers in the event of abandonment of the ship and will help authorities prescribe the organic composition of the crew members.¹⁵⁴

In addition to the above, the master and two of the navigational officers of a cargo ship or three of the navigational officers of a passenger ship are obliged to possess the appropriate certificates.¹⁵⁵ Each person in charge of or executing duties related to radio operations on a ship that requires participation in the Global Maritime Distress and Safety System (GMDSS) must possess the appropriate certificate relating to this system, which is issued in accordance with the provisions of the Radio Operators Regulations and the requirements of the STCW Convention.¹⁵⁶ The master,

147. *Id.* § 11.

148. *Id.* § 11(2).

149. *Id.* § 12.

150. *Id.* § 13(1).

151. *Id.* § 14.

152. *Id.* § 15.

153. As indicated in Law No. 105(I)/2000 § 6 (Cyprus), the competent authority for the implementation of the provisions of the law and for the issue of regulations under it, is the Minister of Communications and Work and those appointed by him.

154. Law No. 105(I)/2000 § 16.

155. *Id.* § 17(1).

156. *Id.* § 17(2).

officers, and ratings designated for the operation of lifeboats or inflatable life rafts must also possess the appropriate certificates of operator.¹⁵⁷ The master and seafarers designated to oversee fire-fighting operations must possess appropriate certificates or documentary evidence of training at an advanced level in fire fighting techniques, issued in accordance with the STCW Convention and recognized by a competent authority.¹⁵⁸

The company must ensure that a valid safe manning document is kept on board every ship at all times and that the manning of the ship is maintained at all times, at least to the level specified in the safe manning certificate.¹⁵⁹ The competent authority, in response to an application by the company, issues a safe manning certificate for a Cypriot ship, provided that all the prerequisites are complied with and the prescribed fee has been paid.¹⁶⁰ Thus, it appears that the legislation of Cyprus satisfies the requirements of Article 2(a) of Convention No. 147 concerning the manning of ships to guarantee the safety of life on board.

Cyprus also regulates the national composition of the crews on Cypriot ships. Under the Merchant Shipping (Crew) (Minimum Percentage of Citizens of the Republic) Regulations,¹⁶¹ Cypriots should constitute not less than fifteen percent of the crew on Cypriot ships. Nevertheless, since there are not many Cypriot seafarers available,¹⁶² in practice this percentage is rarely observed. Bilateral agreements on merchant shipping between Cyprus and other countries set out provisions for the employment of properly qualified foreign seafarers.¹⁶³

The manning requirements for Greek ships are prescribed by the Code of Public Maritime Law. Under the Code, the crews of the ships

157. *Id.* § 18. It should be noted that the certificates of operator of lifeboats or operator of inflatable life rafts are issued in accordance with the provisions of the STCW Convention.

158. *Id.* § 19.

159. *Id.* § 24(2).

160. *Id.* § 24(4).

161. Merchant Shipping (Crew) (Minimum Percentage of Citizens of the Republic) Regulations of 1969 (Cyprus) (printed separately).

162. According to unpublished data from the Cyprus Merchant Shipping Department, in recent years there have been about 500 Cypriot seafarers on board Cyprus ships, most of them masters and officers.

163. Bilateral agreements on merchant shipping have been concluded between Cyprus and the German Democratic Republic (Jan. 25, 1980), the Socialist Republic of Romania (Oct. 25, 1983), the Polish People's Republic (July 18, 1984, amended on June 30, 1988), the Republic of the Philippines (Sept. 7, 1984), the Democratic Republic of Sri Lanka (Oct. 3, 1984, modified on June 30, 2000), the USSR (binding on the Russian Federation as from Jan. 19, 1992), the People's Republic of Bulgaria (Dec. 19, 1985), the People's Republic of China (Aug. 29, 1990), the Syrian Arab Republic (Dec. 24, 1990), the Republic of India (Feb. 11, 1997), the Democratic and Popular Republic of Algeria (Nov. 11, 1997, not yet in force), the Republic of Lithuania (Feb. 15, 2000), the Republic of Cuba (May 16, 2000) and the Republic of Latvia (Dec. 15, 2000).

must be composed of seamen who are, in principle, of Greek nationality, in possession of the certificate of professional capacity (diploma, certificate, license, or diploma based on experience) or scientific capacity, or other specialists possessing the license required for the exercise of their profession.¹⁶⁴ The organic composition of the crews is to be defined by presidential decrees and, in exceptional cases, by ministerial orders.¹⁶⁵ Thus, it appears that the legislation of Greece also complies with the standards of manning contained in Article 2(a) of Convention No. 147.

As concerns the national composition of the crew on Greek vessels, the nationals of European Community countries may generally be engaged under the same conditions as Greek nationals.¹⁶⁶ Nevertheless, posts necessitating the exercise of public power, such as the post of master, continue to be reserved for Greek citizens, which is in conformity with EC law.¹⁶⁷ Foreign seafarers from countries other than EC member states may be exceptionally engaged on Greek ships if there are no Greek seafarers available, or if Greek seafarers offer themselves for engagement under conditions which are contrary to the provisions dealing with salaries and conditions of work on a ship.¹⁶⁸ Furthermore, under the Code of Public Maritime Law, foreigners may not constitute more than twenty-five percent of the crew¹⁶⁹ and, correspondingly, the remaining seventy-five percent has to be filled by Greek nationals or, subject to the above-mentioned conditions, by nationals of EC countries. Nevertheless, laws or presidential decrees may be adopted to decrease or adjust this restriction depending on the category of ship and the specialty of seafarers in question.¹⁷⁰

The comparison of manning standards on Cypriot and Greek ships reveals that, for shipowners, the legislation of Cyprus is more advantageous, not in the strict sense of manning standards

164. Code of Public Maritime Law, *supra* note 63, art. 87, ¶ 1.

165. *Id.* ¶ 2.

166. Presidential Decree No. 12 of 1993, Official Gazette A 5, § 2 (Feb. 1, 1993) (Greece).

167. *Id.*

168. Code of Public Maritime Law, *supra* note 63, art. 88, ¶ 1.

169. *Id.* ¶ 2.

170. For example, in accordance with Article 1 of Law 1376 of 1983 on Measures Relating to Maritime Crisis, which is no longer in force, with regard to seagoing cargo ships of 3000 tons or more and under certain conditions, foreign seafarers could constitute up to 30 percent of the crew in posts corresponding to low level ratings. In addition to this, foreign seafarers were subject to an exceptional regime which provided for lower salaries than those provided for Greeks, stemming from the agreements concluded with the seafarers' trade unions of the country of origin of the seafarers. Law 1376 of 1983 on Measures Relating to Maritime Crisis, Official Gazette A 96, art. 1 (July 18, 1983) (Cyprus). See KOROTZIS, MARITIME LABOUR LAW, *supra* note 62, at 103; Iliana Christodoulou-Varotsi, Le droit au salaire des gens de mer étrangers en droit hellénique, available at http://www.droit.univ-nantes.fr/labos/cdmo/nept/nep25_2.pdf.

requirements, but because of the divergence on the issue of engaging foreign seafarers. While the standards of manning of Greek ships are defined by presidential decrees or ministerial orders, standards in Cyprus are defined by the competent authority following the proposal submitted by the shipowner. More importantly, the required percentage of Cypriot seafarers employed on Cypriot ships (fifteen percent) is much lower than that of Greek seafarers to be employed on Greek ships (seventy-five percent). Thus, shipowners registering their ships in Cyprus are able to recruit seafarers from developing countries and are given the opportunity of applying collective agreements to Cypriot ships that, for example, might have been concluded with the seafarers' trade unions of the country of origin of the labor force. Therefore, shipowners are able to reduce the overall level of crew wages to a significantly greater degree than those registering their ships in Greece. In actuality, the possibility of paying lower wages to foreign seafarers is also prescribed in Greek law but on a smaller scale, within the framework of the special regime instituted by legislative decree No. 2687 of 1953 on the investment and protection of capital from abroad. Furthermore, this regime is applicable only in connection with specific ships.¹⁷¹

4. Other Safety Standards

(a) Prevention of Accidents

Greece has ratified the Prevention of Accidents (Seafarers) Convention of 1970 (Convention No. 134),¹⁷² but Cyprus has not yet done so. Therefore, in accordance with Article 2(a) of Convention No. 147, Cyprus must pass laws or regulations substantially equivalent to Articles 4 and 7 of Convention No. 134. In accordance with Convention No. 134:

Article 4

1. Provisions concerning the prevention of occupational accidents shall be laid down by laws or regulations, codes of practice or other appropriate means.¹⁷³
2. These provisions shall refer to any general provisions on the prevention of accidents and the protection of health in employment which may be applicable to the work of seafarers, and shall specify

171. See Kodix Nomon 2687/1953, 1213 (1953) (Greece).

172. Convention No. 134 was ratified by Greece with Law 486 of 1976 (Official Gazette A 321 dated December 3, 1976) and came into force for Greece on June 8, 1978. Law 486 of 1976, Official Gazette A 321 (Dec. 3, 1976) (Greece).

173. *Id.* art. 4, ¶ 1.

measures for the prevention of accidents which are peculiar to maritime employment.¹⁷⁴

3. In particular, these provisions shall cover the following matters:(a) general and basic provisions; (b) structural features of the ship; (c) machinery; (d) special safety measures on and below deck; (e) loading and unloading equipment; (f) fire prevention and fire-fighting; (g) anchors, chains and lines; (h) dangerous cargo and ballast; (i) personal protective equipment for seafarers.¹⁷⁵

Article 5

1. The accident prevention provisions referred to in Article 4 shall clearly specify the obligation of shipowners, seafarers and others concerned to comply with them.¹⁷⁶

* * *

2. Generally, any obligation on the shipowner to provide protective equipment or other accident prevention safeguards shall be accompanied by provision for the use of such equipment and safeguards by seafarers and a requirement that they comply with the relevant accident prevention measures.¹⁷⁷

Article 6

1. Appropriate measures shall be taken to ensure the proper application of the provisions referred to in Article 4, by means of adequate inspection or otherwise.¹⁷⁸

* * *

3. All necessary steps shall be taken to ensure that inspection and enforcement authorities are familiar with maritime employment and its practices.¹⁷⁹

4. In order to facilitate application, copies or summaries of the provisions shall be brought to the attention of seafarers, for instance by display in a prominent position on board ship.¹⁸⁰

Article 7

Provision shall be made for the appointment, from amongst the crew of the ship, of a suitable person or suitable persons or of a suitable committee responsible, under the Master, for accident prevention.¹⁸¹

Article 8

1. Programmes for the prevention of occupational accidents shall be established by the competent authority with the co-operation of shipowners' and seafarers' organisations.¹⁸²

174. *Id.* art. 4, ¶ 2.

175. *Id.* art. 4, ¶ 3.

176. *Id.* art. 5, ¶ 1.

177. *Id.* art. 5, ¶ 2.

178. *Id.* art. 6, ¶ 1.

179. *Id.* art. 6, ¶ 3.

180. *Id.* art. 6, ¶ 4.

181. *Id.* art. 7.

2. Implementation of such programmes shall be so organised that the competent authority, shipowners and seafarers or their representatives and other appropriate bodies may play an active part.¹⁸³

3. In particular, national or local joint accident prevention committees or ad hoc working parties, on which both shipowners' and seafarers' organisations are represented, shall be established.¹⁸⁴

Article 9

1. The competent authority shall promote and, in so far as appropriate under national conditions, ensure the inclusion, as part of the instruction in professional duties, of instruction in the prevention of accidents and in measures for the protection of health in employment in the curricula, for all categories and grades of seafarers, of vocational training institutions.¹⁸⁵

2. All appropriate and practicable measures shall also be taken to bring to the attention of seafarers information concerning particular hazards, for instance by means of official notices containing relevant instructions.¹⁸⁶

To have "substantial equivalence," according to the Committee of Experts, the essential features of Article 2(a) of Convention No. 147 in relation to Articles 4 and 7 of Convention No. 134, means that there should be laws or regulations on the nine general and specific subjects listed in Article 4(3) and that one or more crew members should be appointed as responsible for accident prevention under Article 7.¹⁸⁷ Substantial equivalence of the legislation of Cyprus to Articles 4 and 7 of Convention No. 134 is ensured by Law No. 13(III) of 1995 and the Merchant Shipping (Safety Regulations and Seamen) (Amendment) Law of 1963 (Law No. 38/63), for the implementation of which two series of regulations have been adopted.¹⁸⁸

Regarding the general measures and measures for the prevention of accidents which are peculiar to maritime employment, under the legislation of Cyprus, it is the joint responsibility of the shipowner and the master of every Cypriot sea-going ship to ensure that the necessary protective equipment is available and that protective measures are taken for the prevention of accidents and the

182. *Id.* art. 8, ¶ 1.

183. *Id.* art. 8, ¶ 2.

184. *Id.* art. 8, ¶ 3.

185. *Id.* art. 9, ¶ 1.

186. *Id.* art. 9, ¶ 2.

187. General Survey, *supra* note 37, at 59.

188. The Merchant Shipping (Safety Regulations and Seamen) (Amendment) 1963 (Law 38/63), Gazette No. 257, Supplement I (June 13, 1963) (Cyprus); The Merchant Shipping (Life Saving Appliances) Regulations, 1953, Gazette No. 3710, Supplement III, P.I. No. 386/53 (Aug. 13, 1953) (Cyprus); Merchant Shipping (Fire Appliances) Regulations, 1975, Gazette No. 1223, Supplement III(I), P.I. No. 176/75 (Sept. 26, 1975) (Cyprus).

protection of the health of seafarers during sea service.¹⁸⁹ As to the appointment of a suitable person to be responsible for accident prevention,¹⁹⁰ Cypriot legislation states that the master of every Cypriot sea-going ship is obliged to appoint an officer or officers under his supervision, who will be involved with the prevention of accidents on the ship.¹⁹¹ Therefore, it appears that the provisions of the legislation of Cyprus are substantially equivalent to Articles 4 and 7 of Convention No. 134.

Greece, in conforming to Convention No. 134, has national legislation covering basic general provisions such as structural features of the ship,¹⁹² machinery,¹⁹³ special safety measures on and below deck,¹⁹⁴ loading and unloading equipment,¹⁹⁵ and fire prevention and fighting.¹⁹⁶ Furthermore, in Greece, the appointment of a suitable person or committee responsible under the master for accident prevention,¹⁹⁷ which is one of the requirements of Convention No. 134, is ensured by Ratification Law No. 486 of 1976. Therefore, it appears that the legislation of Greece gives full effect to the provisions of Convention No. 134.

The comparison of the standards dealing with the prevention of accidents on Greek and Cypriot ships allows us to draw the conclusion that shipowners would not have any advantages in registering their ships in Cyprus over registering them in Greece. Since Convention No. 134 itself does not prescribe any specific standards that should be included in the rules of accident prevention (such as the amount of protective equipment or the number of technical specifications), the mere existence of laws or regulations, codes of practice, or other appropriate means covering the matters listed in the Convention would be sufficient for compliance with the requirements of the Convention, regardless of the exact standards

189. Law No. 13(III), 1995, § 24 (Cyprus).

190. Convention No. 134, *supra* note 54, art. 7.

191. Law No. 13(III), § 25.

192. *See, e.g.*, Presidential Decree No. 399 of 1980, Official Gazette A 110 (May 8, 1980) (concerning the approval of regulation on ship's load lines (as amended)); Presidential Decree No. 132 of 1981, Official Gazette A 40 (Feb. 16, 1981) (concerning the approval of regulations on minimum standards for certain tank-vessels).

193. *See, e.g.*, Royal Decree No. 639 of 1969, Official Gazette, A 198 (Oct. 4, 1969) (concerning the inspection of machines and electric installations of ships).

194. *See, e.g.*, Royal Decree No. 36 of 1967, Official Gazette A 9 (Jan. 25, 1967) (concerning the regulations on safety engines of ships); Royal Decree No. 283 of 1973, Official Gazette A 84 (Apr. 10, 1973) (concerning regulations on the measures of protection of the crew).

195. *See, e.g.*, Presidential Decree No. 131 of 1981, Official Gazette A 40 (Feb. 16, 1981) (concerning the approval and application of the regulations on the inspection of hoisting equipment on board ship).

196. *See, e.g.*, Presidential Decree No. 149 of 1976, Official Gazette A 58 (Mar. 16, 1976) (concerning regulations on fire-fighting material).

197. Convention No. 134, *supra* note 54, art. 7.

prescribed by them. The legislation of Greece gives full effect to the provisions of Convention No. 134, whereas the provisions of the legislation of Cyprus are substantially equivalent to Articles 4 and 7 of the Convention. Therefore, from the point of view of the cost imposed on shipowners by the respective standards, the application of Convention No. 134 in Cyprus on the basis of the principle of "substantial equivalence" would not be significantly different from strict compliance with its provisions in Greece.

(b) Minimum Age

Of the three Conventions concerning minimum age [the Appendix to Convention No. 147 Minimum Age Convention of 1973 (Convention No. 138), Minimum Age (Sea) Convention (Revised) of 1936 (Convention No. 58), Minimum Age (Sea) Convention of 1920 (Convention No. 7)], both Greece¹⁹⁸ and Cyprus¹⁹⁹ are bound by Convention No. 138.

Convention No. 138 is a general instrument applicable to all workers in any occupation, including seafarers. This Convention itself does not establish any specific minimum age for admission to employment, but rather indicates that such age shall be not less than 15 years, except that in the event of insufficient development of national economy and educational facilities this may be reduced to 14 years. The respective Member ratifying the Convention in a declaration appended to its ratification shall specify the specific minimum age. Under Article 3 of the Convention, the minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons shall not be less than 18 years, which under certain conditions prescribed by the Convention may be reduced to 16 years. It is left to national legislation to decide whether this is the case for maritime employment.²⁰⁰

Law No. 1182 of 1981 on the ratification of Convention No. 138²⁰¹ and Law No. 1837 of 1989 concerning the protection of young persons in employment and other provisions give effect to Convention No. 138 in Greece.²⁰² In a declaration appended to ratification of the Convention, Greece has specified fifteen years as the minimum age for admission to employment and, as a result, it has denounced the Minimum Age (Sea) Convention of 1936 (Convention No. 58).²⁰³ Since

198. Convention No. 138, *supra* note 7 (in force for Greece on Mar. 14, 1987).

199. *Id.* (Convention No. 138 came into force for Cyprus on Jan. 10, 1996).

200. General Survey, *supra* note 37, § 108, at 60.

201. Law No. 1182 of 1981, Official Gazette A 193 (July 24, 1981) (Greece) (concerning the ratification of Convention No. 138).

202. Law No. 1837 of 1989, Official Gazette A 85 (Mar. 23, 1989) (Greece) (concerning the protection of young persons in employment and other provisions).

203. Prior to ratification of Convention No. 138, Greece was bound by Convention No. 58, which came into force for Greece on Oct. 9, 1964. ILO, Minimum

Convention No. 58 specifies fifteen years as the minimum age for admission to maritime employment,²⁰⁴ the ratification of Convention No. 138 by Greece did not require the introduction of any amendments to the national legislation applying the provisions of Convention No. 58, namely Presidential Decree No. 543 of 1980²⁰⁵ and the Decision of the Ministry of Mercantile Marine of January 2, 1981 No. 70056/15.²⁰⁶ Under Decree No. 543 of 1980, no person under fifteen years may be employed on board vessel.²⁰⁷ Nevertheless, persons under fifteen years of age, but under no circumstances less than fourteen years old, could work on vessels upon which only members of their family were employed.²⁰⁸

Cyprus has ratified Convention No. 138 by Law No. 17(III) of 1997.²⁰⁹ In a declaration appended to its ratification, Cyprus has specified fifteen years as the minimum employment age and, as a result, it has also denounced the Convention No. 58.²¹⁰ Law No. 17(III) of 1997 reproduces the provisions of ILO Convention No. 138.²¹¹ It should moreover be noted that, in connection with the employment of children and young persons on Cypriot ships, Part XIV of the Merchant Shipping (Masters and Seamen) Law 1963-2002 provides that no person under the age of sixteen years may be employed or work on a Cypriot ship other than one upon which only members of the same family are employed.²¹²

The comparison of standards prescribing the minimum age of admission to maritime employment in Greece and Cyprus reveals that, under the existing legislation of Greece, the minimum age is one year lower than under the existing legislation of Cyprus. But from the

Age (Sea) Convention, C. 58 (1936), available at www.ilo.org/ilolex/english/iloquery.htm [hereinafter Convention No. 58]. In accordance with Article 10, paragraph 4(d) of Convention No. 138, when the obligations of this Convention are accepted, in respect of maritime employment, by a Member which is a party to the Minimum Age (Sea) Convention (Revised), 1936, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of Convention No. 138 or the Member specifies and Article 3 of Convention No. 138 applies to maritime employment, this shall *ipso jure* involve the immediate denunciation of that Convention. Convention No. 138, *supra* note 7, art. 10, ¶ 4(d).

204. In accordance with Article 2, paragraph 1 of Convention No. 58, children under the age of fifteen years shall not be employed or work on vessels, other than vessels upon which only members of the same family are employed. Convention No. 58, *supra* note 203, art. 2, ¶ 1.

205. Presidential Decree No. 543 (1980), Official Gazette A 145 (June 21, 1980) (Greece).

206. Official Gazette B 40 (Jan. 26, 1981) (Greece).

207. Presidential Decree No. 543, art. 1 (1980) (Greece).

208. *Id.* art. 2.

209. Law No. 17(III) of 1997, Official Gazette No. 3158, supp. I, 883-96 (June 27, 1997) (Cyprus) (on the ratification of the Convention (No. 138)).

210. Convention No. 58 came into force for Cyprus on Jan. 10, 1996.

211. Law No. 17(III), 1997 (Cyprus).

212. Cyprus Masters and Seamen Law, *supra* note 76, § 92(1).

point of view of potential cost savings on sea-going ships, the practical effect of this one-year difference should not be overestimated. Moreover, under Convention No. 180, ratified by Greece in 2002, no person under sixteen years of age may work on the ship.²¹³ Therefore, it may be expected that in the near future the legislation of Greece will be brought into conformity with this requirement of Convention No. 180 and its legislation will be amended to increase the minimum age for admission to maritime employment from fifteen to sixteen years.

(c) Medical Examination

Greece has ratified the Medical Examination (Seafarers) Convention of 1946 (Convention No. 73),²¹⁴ but Cyprus has not. Thus, while Greece should ensure strict compliance with the provisions of this Convention, Cyprus should apply it on the basis of the principle of "substantial equivalence."

Convention No. 73 requires every person who is engaged in any capacity on a seagoing vessel of 200 GRT or more, engaged in the transport of cargo or passengers for the purpose of trade, and registered in a territory for which the Convention is in force (except wooden vessels of primitive build such as dhows and junks, fishing vessels and estuarial craft), to produce a certificate attesting to his fitness.²¹⁵ The certificate must be signed by a medical practitioner or, in the case of a certificate solely concerning sight, by a person authorized by the competent authority to issue such a certificate.²¹⁶ This requirement is not applicable to pilots (who are not members of the crew), persons employed on board by an employer other than the shipowner, except radio officers or operators in the service of a wireless telegraphy company, travelling dockers (longshoremen) who are not members of the crew.²¹⁷

The nature of the medical examination and the particulars to be included in the medical certificate should be prescribed by a competent authority, after consultation with the shipowners' and seafarers' organizations concerned.²¹⁸ When prescribing the nature of the examination, due regard should be given to the age of the person to be examined and the nature of the duties to be performed.²¹⁹ In

213. Convention No. 180, *supra* note 55, art. 12.

214. Medical Examination (Seafarers) Convention, C. 73 (1946), available at www.ilo.org/ilolex/english/iloquery.htm [hereinafter Convention No. 73]; Ratification Law 1131 of 1981, Official Gazette A 39 (Feb. 13, 1981) (Greece). Convention No. 73 came into force for Greece on November 6, 1981.

215. Convention No. 73, *supra* note 214, art. 1, ¶¶ 1, 3, art. 3.

216. *Id.* art. 3, ¶ 1.

217. *Id.* art. 2.

218. *Id.* art. 3, ¶ 1.

219. *Id.* art. 4, ¶ 2.

particular, the medical certificate shall attest: that the hearing and sight of the person and, in the case of a person to be employed in the deck department (except for certain specialist personnel, whose fitness for the work which they are to perform is not liable to be affected by defective color vision), his color vision, are all satisfactory; and that he is not suffering from any disease likely to be aggravated by, or to render him unfit for, service at sea or likely to endanger the health of other persons on board.²²⁰

The medical certificate is only good for two years²²¹ or for six years with respect to color vision, from the date it is signed.²²² If the period of validity of a certificate expires in the course of a voyage the certificate shall continue to be in force until the end of that voyage.²²³ In urgent cases the competent authority may allow a person to be employed for a single voyage without having satisfied the requirements.²²⁴ Arrangements must be made to enable a person who, after examination, has been refused a certificate to apply for a further examination by an independent medical referee.²²⁵

“Substantial equivalence,” with Convention No. 73, according to the Committee of Experts, may be met where there are laws or regulations providing for compulsory regular medical examinations for seafarers, preferably every two years (six years with respect to color vision), but certainly more frequently than every five years; the certificate issued should attest to fitness of hearing, sight, and, where necessary in the deck department, color vision, and should attest to the absence of any disease (including but not limited to pulmonary tuberculosis) incompatible with service at sea or likely to endanger the health of others. There should preferably be arrangements for re-examination in the event of refusal of a certificate.²²⁶

The substantial equivalence of provisions of the legislation of Cyprus to Convention No. 73 arises from the Merchant Shipping (Medical Examination of Seafarers and Issue of Certificates) Law of

220. *Id.* art. 4, ¶ 3. It should also be noted that in accordance with decisions taken by the Governing Body of the ILO at its 268th Session (March 1997) and the 49th Session of the World Health Assembly (May 1996), an ILO/WHO Consultation on Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations for Seafarers was held in Geneva from November 25-27, 1997. The Consultation adopted the Guidelines for Conducting Pre-sea and Medical Fitness Examinations for Seafarers. See ILO, Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations for Seafarers, ILO/WHO/D.2/1997, available at <http://www.ilo.org/public/english/dialogue/sector/techmeet/ilowho97/>.

221. Convention No. 73, *supra* note 214, art. 5, ¶ 1.

222. *Id.* art. 4, ¶ 2.

223. *Id.* art. 5, ¶ 2.

224. *Id.* art. 6, ¶ 1.

225. *Id.* art. 8.

226. *Id.*

2000 (the "Law No. 107(I)/2000"),²²⁷ applying in principle to seagoing ships of 500 gross tons or more including tugboats.²²⁸ Cypriot legislation in the above-mentioned instrument expressly provides for the application of the aforementioned law to non-Cypriot seagoing ships of 500 gross tonnage or more when they are in Cypriot ports or within the territorial waters thereof.

Under the legislation of Cyprus, the engagement of a seafarer on a ship is subject to the possession by the seafarer of a valid medical fitness certificate.²²⁹ It is the company's²³⁰ responsibility to ensure that all persons employed on its ships to which Law No. 107(I)/2000 applies hold a valid and genuine medical fitness certificate.²³¹ The period of validity of the medical certificate under the legislation of Cyprus is subject to the following maximum periods: (a) with respect to seafarers under eighteen years of age, one year, and (b) with respect to seafarers over eighteen years of age, two years from the date of its issuance.²³² If the period of validity of the certificate expires in the course of a voyage, the certificate continues in force until the end of that voyage.²³³ In addition, if the period of validity of a medical fitness certificate expires at a place where the medical examination of the seafarer in accordance with the provisions of the law is practically impossible, he may continue his sea service for a period of three months, from the date of expiration of the certificate.²³⁴

In urgent cases, in the absence of medical certificate,²³⁵ a person may be allowed employment for a single voyage, under Law No. 107(I)/2000. In circumstances of exceptional necessity, the employment of a specific seafarer on a specific ship for a specific voyage without a medical fitness certificate is possible.²³⁶ In this case a relevant entry must be made in the journal and the official logbook

227. The Merchant Shipping (Medical Examination of Seafarers and Issue of Certificates) Law of 2000 (Law No. 107(I)/2000), Gazette No. 3419, Supp. I(I) (July 14, 2000) (Cyprus) [hereinafter Cyprus Medical Fitness Law].

228. Cyprus Medical Fitness Law, *supra* note 227, § 3.

229. *Id.* § 5.

230. According to section 2 of the Cyprus Medical Fitness Law, a "company also includes a physical entity, and in relation to the ship, means the owner of the ship or any other organization or person, such as the manager, or the bareboat charterer, who has assumed the responsibility for the operation of the ship from the shipowner and who, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed on the company, by the regulations which are annexed to the STCW Convention." *Id.* § 2.

231. *Id.* § 6.

232. *Id.* § 13.

233. *Id.* § 13(3).

234. *Id.* § 7.

235. Convention No. 73, *supra* note 214, art. 6, ¶ 1.

236. Cyprus Medical Fitness Law, *supra* note 227, § 8.

of the ship and signed by the master and the seafarer concerned.²³⁷ In addition to this, under the same provision, the terms of employment of a seafarer who has been employed under the provisions related to circumstances of exceptional necessity must be the same as the terms of employment for the rest of the seafarers employed in the same capacity furnished with a medical fitness certificate.²³⁸ Therefore, the provisions of the above-mentioned Cypriot legislation seem to achieve the goals prescribed by Convention No. 73 and, therefore, are substantially equivalent to the provisions of this Convention.

An important issue, with which the Convention does not deal but which is significant in Cyprus, concerns the recognition of medical certificates issued by the competent authority of another state.²³⁹ Under Law 107(I)/2000, a medical fitness certificate issued in accordance with the provisions of Convention No. 73 or Convention No. 147 is deemed equivalent to a medical fitness certificate issued under this law, provided that it has been issued by a country the certificates of competency of which are recognized by the Republic of Cyprus in accordance with the Merchant Shipping (Issue and Recognition of Certificates and Maritime Training) Law of 2000.²⁴⁰

Another important issue outside the scope of the Convention is who must bear the cost of the medical examination. As the legislation of Cyprus does not expressly deal with this point, the possibility may not be discounted that this cost might be borne by seafarers. Nevertheless, given that "[a]ny certificate of medical fitness of seafarers is issued in the Republic by approved medical practitioners of either the public or private sector,"²⁴¹ it may be assumed that this cost may be avoided by seafarers by consulting a public doctor.

Presidential Decree No. 591 of 1975 on the Medical Examination of Seafarers²⁴² and Circulars of the Minister of Mercantile Marine Nos. 70090/4384²⁴³ and 70090/4955²⁴⁴ give effect to Convention No. 73 in Greece. The presidential decree provides for the conduct of medical examinations in view of the issue of a medical certificate mainly for seafarers who are candidates for enrollment in maritime education. According to this instrument, medical examinations are carried out by public medical committees²⁴⁵ and consequently it may

237. *Id.* § 8(1).

238. *Id.* § 8(2).

239. *Id.* § 18.

240. *Id.* § 18(1).

241. *Id.* § 10(1).

242. Presidential Decree No. 591 of 1975, Official Gazette A 191 (Sept. 8, 1975) (Greece) [hereinafter Decree No. 591].

243. Circulars of the Minister of Mercantile Marine, No. 70090/4384 (May 29, 1978) (Greece) (printed separately) [hereinafter Circular No. 70090/4384].

244. Circulars of the Minister of Mercantile Marine, No. 70090/4955 (July 23, 1978) (Greece) (printed separately).

245. Decree No. 591 of 1975, *supra* note 242, § 2.

be assumed that they are basically free of cost. Circular No. 70090/4384 requires that seafarers engaged for employment on Greek sea-going ships possess medical certificates attesting to their fitness for the work for which they are engaged, issued in Piraeus by the Ministry of Mercantile Marine, or in ports where there is a Greek Port or Consular authority by that authority.²⁴⁶ The certificate must be issued by a medical practitioner authorized by the Ministry of Merchant Marine or by the Port or consular authority and authenticated as necessary.²⁴⁷ The period of validity of the medical certificate is two years and, insofar as it relates to color vision, six years from the date on which it was granted.²⁴⁸ Any seafarer found unfit for service at sea may apply for a further examination by the Supreme Medical Committee for Seafarers.²⁴⁹ The Seaman's Employment Office must not grant any sign-on permits to seafarers for ships to which the Convention applies, unless they are holders of an appropriate medical certificate. The port authorities in Greek ports, the consular authorities abroad, and the Seamen's Employment Office are the competent authorities for the implementation of the Convention.

The Code of Public Maritime Law does not address the issue of when urgency will permit a person employment for a single voyage in the absence of medical certificate. However, taking into account that Ratification Law 1131 of 1981 reproduced the whole text of Convention No. 73 including Article 6 dealing with such cases, it may be concluded that such a possibility exists for urgent employment in Greece as well. Thus, the legislation of Greece gives full effect to the provisions of Convention No. 73.

The comparison of medical examination standards employed with respect to Cypriot and Greek ships demonstrates that shipowners would not gain any advantage by registering their ships in Cyprus over registering them in Greece. Indeed, there is no difference between standards existing in Cyprus and those existing in Greece. In both cases, employment on a ship is conditional upon production of the certificate attesting to a seafarer's fitness for the work for which he is employed, signed by a medical practitioner. The period of validity of certificates in Cyprus and in Greece is two years and, insofar as it relates to color vision, six years from the date on which it was granted. In both countries, in urgent cases, a person may be allowed to be employed for a single voyage in the absence of a medical certificate, and, therefore, neither in Cyprus nor in Greece does the shipowner bear an additional financial burden associated

246. Circular No. 70090/4384, *supra* note 243, art. 1.

247. *Id.* art. 2.

248. *Id.* art. 3.

249. *Id.* art. 5.

with finding an appropriate replacement. Finally, with regard to the cost of medical examinations, shipowners do not have any advantage in registering their ships in Cyprus instead of in Greece.

(d) Food and Catering

The standards of food and catering on ships are prescribed by the Food and Catering (Ships' Crews) Convention of 1946 (Convention No. 68). Greece has ratified Convention No. 68,²⁵⁰ but Cyprus has not. Thus, in accordance with Article 2(a) of Convention No. 147, Cyprus should have laws or regulations and satisfy itself that their provisions are substantially equivalent to Article 5 of Convention No. 68. Under Convention No. 68:

[E]ach Member shall maintain in force laws or regulations concerning food supply and catering arrangements designed to secure the health and well-being of the crews of its seagoing vessels, whether publicly or privately owned, which are engaged in the transport of cargo or passengers for the purpose of trade, and registered in a territory for which this Convention is in force.²⁵¹

These laws or regulations shall require the provision of food and water supplies which, having regard to the size of the crew and the duration and nature of the voyage are suitable in respect of quantity, nutritive value, quality and variety; and the arrangement and equipment of the catering department in every vessel in such manner as to permit the service of proper meals to the members of the crew.²⁵²

Besides these provisions, Convention No. 68 also requires a system of inspection by the competent authority,²⁵³ inspection at sea at prescribed intervals,²⁵⁴ special inspection upon written complaint made by a number or proportion of the crew prescribed by national laws or regulations or on behalf of a recognized organization of shipowners or seafarers,²⁵⁵ and employment training in the catering department.²⁵⁶

According to the Committee of Experts, the substantive safety standards in Article 5 seem to be those requiring food and water supplies which are suitable in quantity, nutritive value and quality to secure the health of the crew.²⁵⁷ The Committee has considered the substantial equivalence to have been shown where there is legislation

250. Convention No. 68 was ratified by Law 1163 of 1981 and came into force for Greece on Feb. 28, 1982. Law 1163 of 1981, Official Gazette A 154 (June 18, 1981) (Greece).

251. Convention No. 68, *supra* note 54, art. 5, ¶ 1 (author's translation).

252. *Id.* art. 5, ¶ 2 (author's translation).

253. *Id.* art. 6.

254. *Id.* art. 7.

255. *Id.* art. 8.

256. *Id.* art. 11.

257. General Survey, *supra* 37, at 68.

even if in only the general terms of Article 5.²⁵⁸ The legislation of Cyprus ensures substantial equivalence to Article 5 of Convention No. 68 on Food and Catering under Law No. 13(III) of 1995,²⁵⁹ the Merchant Shipping (Masters and Seamen) Law 1963-2002,²⁶⁰ and the Merchant Shipping (Dietary of the Crew) Regulations.²⁶¹

In accordance with Law No. 13(III) of 1995, it is a joint responsibility of the shipowner and the master to make arrangements for suitable food and water supplies, taking into consideration the size of the crew, and the duration and nature of the voyage.²⁶² In addition to this, the nationality of the crew must be considered regarding the kind of food provided. Moreover, the equipment and the arrangement of the catering department must be such that the provision of proper meals for the members of the crew is permitted. Furthermore, during the preparation and service of the meals, the basic rules of cleanliness and hygiene are to be followed. The quantity, nutritive value, quality, and variety of food are specifically governed by the above-mentioned Merchant Shipping (Dietary of the Crew) Regulations. The master and the shipowner have joint responsibility for the equipment and the disposition of the catering section in ensuring suitable meals for the crew. These provisions make the legislation of Cyprus substantially equivalent to Article 5 of Convention No. 68.

In Greece, the main acts giving effect to Convention No. 68 are the Code of Public Maritime Law and the Regulations on the accommodation of the Master and Crew of Greek Merchant Ships (the Crew Accommodation Regulations).²⁶³ Under the Code, the ship's crew is entitled to food during the whole of their stay on board. The cost of the food is borne by the shipowner and its provision is the responsibility of the master. The concession for supplying the food may not be granted to either the master or any other officer of the ship.²⁶⁴

Ministerial decisions determine the daily menu, according to the category of vessel concerned, after consultation with the committee of

258. *Id.* at 68.

259. Law No. 13(III), 1995, pt. VI (food for the crew) (Cyprus).

260. Cyprus Masters and Seamen Law, *supra* note 76, pt. IX (entitled Provisions, Health and Accommodation).

261. The Merchant Shipping (Dietary of the Crew) Regulations. Gazette No. 327, supp. III (June 25, 1964) (Cyprus).

262. See Law No. 13(III) §§ 27(a)-(b).

263. Presidential Decree No. 259 of 1981, Official Gazette A 72 (Mar. 26, 1981) (approving regulations on the accommodation of the Master and crew of Greek Merchant Ships).

264. Code of Public Maritime Law, *supra* note 63, art. 101, ¶ 1.

the merchant marine.²⁶⁵ The Minister of Mercantile Marine has created guidelines for meals for several categories including cargo ships between 250 and 500 tons,²⁶⁶ cargo ships of 500 tons or more,²⁶⁷ coasting passenger ships of 250 tons or more,²⁶⁸ and Transatlantic and Mediterranean passenger ships of 250 tons or more.²⁶⁹ Instances in which food supplies may be paid for in cash as well as the price equivalent thereof, are determined by the same procedure.²⁷⁰ Cash equivalent for food supply per day is determined by the relevant collective agreements for the various types of ships.²⁷¹

The observance of the menus as well as the adequacy and suitability of food on Greek vessels are subject to control by the Port or Consular authorities.²⁷² Crew members have the right to make complaints according to the procedures laid down in the Code of Public Maritime Law.²⁷³ Under the Crew Accommodation Regulations, ships between 100 and 500 tons and ships greater than 500 tons must have galleys adequately and sufficiently equipped for the use of the maximum number of persons carried on the ship.²⁷⁴

The comparison of the standards dealing with food and catering on Greek and Cypriot ships demonstrates that shipowners do not gain anything in this respect by registering in Cyprus instead of in Greece. Since Convention No. 68 itself does not prescribe any specific standards for the composition of menus or the supply of water, the mere existence of laws or regulations concerning food supply and catering arrangements are sufficient for compliance with the requirements of the Convention, regardless of the exact standards prescribed thereby. The legislation of Greece gives full effect to the provisions of Convention No. 68, whereas the provisions of the legislation of Cyprus are substantially equivalent to Article 5 of the Convention. So, from the point of view of costs imposed on shipowners by the respective standards, the application of Article 5 of Convention

265. *Id.* art. 101, ¶ 2. As far as ministerial decisions on food supplies are concerned, *see e.g.*, Decision No. 70046/Φ383, Official Gazette B 675 (July 15, 1977) (Greece).

266. Decision of the Ministry of Mercantile Marine No. 63524/71402/71 (Nov. 29, 1971) (Greece).

267. Decision of the Ministry of Mercantile Marine No. 700046/483 (May 6, 1977) (Greece).

268. Decision of the Ministry of Mercantile Marine No. 71481/17/70 (Sept. 19, 1970) (Greece).

269. Decision of the Ministry of Mercantile Marine No. 71481/16/70 (Sept. 19, 1970) (Greece).

270. Code of Public Maritime Law, *supra* note 63, art. 101, ¶ 3.

271. *See, e.g.*, Decision of the Ministry of Mercantile Marine 3525/2002, Official Gazette B 774 (June 21, 2002) (Greece).

272. Code of Public Maritime Law, *supra* note 63, art. 101.

273. *Id.* art. 103.

274. Crew Accommodation Regulations §§ 37(1), 44(1) (ships between 100 and 500 tons), § 21(1) (ships over 500 tons) (Greece).

No. 68 in Cyprus on the basis of the principle of "substantial equivalence" would not differ significantly from the strict compliance with its provisions in Greece.

(e) Repatriation of Seamen

Greece²⁷⁵ and Cyprus²⁷⁶ have both ratified the Repatriation of Seamen Convention of 1926 (Convention No. 23)²⁷⁷ and, therefore, both are obliged to ensure strict compliance with its provisions.

Article 1

1. This Convention is applicable to all seagoing vessels registered in the country of any Member ratifying this Convention, and to the owners, masters and seamen of such vessels.²⁷⁸

* * *

Article 3

1. Any seaman who is landed during the term of his engagement or on its expiration shall be entitled to be taken back to his own country, or to the port at which he was engaged, or to the port at which the voyage commenced, as shall be determined by national law, which shall contain the provisions necessary for dealing with the matter, including provisions to determine who shall bear the charge of repatriation.²⁷⁹

2. A seaman shall be deemed to have been duly repatriated if he has been provided with suitable employment on board a vessel proceeding to one of the destinations prescribed in accordance with the foregoing paragraph.²⁸⁰

* * *

4. The conditions under which a foreign seaman engaged in a country other than his own has the right to be repatriated shall be as provided by national law or, in the absence of such legal provisions, in the

275. Law 1130 of 1981, Official Gazette A 38 (Feb. 13, 1981) (Greece) (entered into force for Greece on May 6, 1981 (ratifying Convention No. 23)).

276. Convention No. 23, *supra* note 7 (entered into force for Cyprus on Sept. 19, 1995).

277. Sometimes repatriation is treated as a social security issue. *See, e.g.*, General Survey, *supra* note 37, § 130, at 69.

278. Convention No. 23, *supra* note 7, art. 1, ¶ 1. The Convention exempts from the scope of its application ships of war, Government vessels not engaged in trade, vessels engaged in the coasting trade, pleasure yachts, Indian country crafts, fishing vessels, vessels of less than 100 tons gross registered tonnage or 300 cubic metres, and vessels engaged in home trade below the tonnage limit prescribed by national law for the special regulation of this trade at the date of the passing of this Convention. *Id.* art. 1, ¶ 2.

279. *Id.* art. 3, ¶ 1. The term "seaman" includes every person employed or engaged in any capacity on board any vessel and entered on the ship's articles. It excludes masters, pilots, cadets and pupils on training ships and duly indentured apprentices, naval ratings, and other persons in the permanent service of a Government. *Id.* art. 2(b).

280. *Id.* art. 3, ¶ 2.

articles of agreement. The provisions of the preceding paragraphs shall, however, apply to a seaman engaged in a port of his own country.²⁸¹

Article 4

The expenses of repatriation shall not be a charge on the seaman if he has been left behind by reason of (a) injury sustained in the service of the vessel, or (b) shipwreck, or (c) illness not due to his own wilful act or default, or (d) discharge for any cause for which he cannot be held responsible.²⁸²

Article 5

1. The expenses of repatriation shall include the transportation charges, the accommodation and the food of the seaman during the journey. They shall also include the maintenance of the seaman up to the time fixed for his departure.²⁸³

2. When a seaman is repatriated as member of a crew, he shall be entitled to remuneration for work done during the voyage.²⁸⁴

Article 6

The public authority of the country in which the vessel is registered shall be responsible for supervising the repatriation of any member of the crew in cases where this Convention applies, whatever may be his nationality, and where necessary for giving him his expenses in advance.²⁸⁵

Law No. 12(III) of 1995 and Part X of Law No. 46 of 1963 give effect to Convention No. 23 in Cyprus.²⁸⁶ Law No. 12(III) of 1995 applies to all Cypriot sea-going ships except those covered in Article 1, paragraph 2 of the Convention, and to all seamen working on board.²⁸⁷ In addition, Law No. 12(III) of 1995 provides for a general prohibition on the abandonment of seafarers by the shipowner at any port without making specific arrangements for the time of their stay

281. *Id.* art. 3, ¶ 4.

282. *Id.* art. 4. The comparison of Articles 3 and 4 of the Convention suggests that the Convention draws a clear distinction between bearing the charge of repatriation (which shall be determined by the national law) and bearing the cost of repatriation (which shall not be a charge on the seaman if he has been left behind by one of the four reasons listed in Article 4). The Convention itself does not determine who shall bear the charge of repatriation or who should bear its cost in cases listed in Article 4. *Cf.* ILO: Record of Proceedings, Report of the Committee on the Repatriation of Seaman, ILC, 9th Sess. At 544 (Geneva, 1926) ("the Committee agreed to a proposal that the Article should enumerate the cases in which the cost of repatriation should not be a charge on the seaman, rather than those in which the seaman should contribute to the cost").

283. Convention No. 23, *supra* note 7, art. 5, ¶ 1.

284. *Id.* art. 5, ¶ 2.

285. *Id.* art. 6.

286. The Convention Concerning the Repatriation of Seamen (Ratification) and for Matters Connected Therewith, Law No. 12(III) of 1995, Official Gazette No. 2980, Supp. I(III) (June 9, 1995) (Cyprus) [hereinafter Cyprus Repatriation Law].

287. *Id.* § 5.

at that port and for their repatriation.²⁸⁸ The shipowner is obligated to take any necessary action for the repatriation of the seafarers employed by him in the cases prescribed in Article 4 of the Convention and for the payment of the relevant repatriation expenses.²⁸⁹ At the end of his engagement, the seaman has the right to choose the port of his repatriation among the destinations prescribed by the Convention,²⁹⁰ a right which may be exercised in advance and irrevocably at the time of the signing of his contract of employment.²⁹¹

The conditions of repatriation of foreign seamen employed in Cypriot vessels are the same as the conditions of repatriation of Cypriot seamen, because the said instrument specifically indicates that the provisions of the Convention and those of the Law are applicable to all seamen working on board.²⁹² Moreover, in the event of abandonment of a seafarer by the shipowner, the Republic of Cyprus becomes responsible for the repatriation and the coverage of the expenses incurred, and it substitutes the seafarer with respect to his rights against the shipowner concerning the paid repatriation expenses, increased by fifty percent.²⁹³ Thus, the legislation of Cyprus gives full effect to the provisions of Convention No. 23.

The main act giving effect to the provisions of Convention No. 23 in Greece, apart from ratification Law No. 1130 of 1981, is the Code of Private Maritime Law. Under the Code, when a contract of engagement is terminated, the seaman is entitled to repatriation,²⁹⁴ unless: (a) the contract is terminated by the master by reason of the seaman's misconduct; or (b) in the case of paragraph 1 of Article 73 of the Code,²⁹⁵ the contract is terminated before one year has elapsed; and (c) the contract is entered into for a specific voyage.²⁹⁶ The seaman must exercise his right to repatriation without delay by declaration made to the master,²⁹⁷ at which point the master must provide the seaman passage on a reasonable means of transport bound for Greece, and pay him enough to ensure his maintenance

288. *Id.* § 8.

289. *Id.* § 6.

290. Convention No. 23, *supra* note 7, art. 3.

291. Cyprus Repatriation Law, *supra* note 285, § 7.

292. *Id.* § 5.

293. *Id.* § 9.

294. Code of Private Maritime Law, *supra* note 62, art. 78, ¶ 1.

295. *Id.* art. 73, ¶ 1 (indicating that a contract of engagement of indefinite duration may be terminated after nine months have elapsed from its conclusion. If the port of destination of the ship lies outside the Mediterranean, the Red Sea, the Persian Gulf or Europe, the aforesaid contract may be terminated by the seaman after eleven months have elapsed).

296. *Id.* art. 78, ¶ 2.

297. *Id.* art. 79.

until he reaches home.²⁹⁸ Instead of repatriation, the seaman may request a ticket to another place, provided this does not entail greater expense.²⁹⁹ A seaman who, after his discharge, enters into a new contract of engagement forfeits his right to repatriation.³⁰⁰ Discharged seamen are entitled to remain and be maintained on the ship until their wages have been paid and arrangements made for their repatriation.³⁰¹ These provisions of the Code of Private Maritime Law are applicable to the master of the ship³⁰² as well as to alien seamen.³⁰³

On one hand, there seem to be divergences between the provisions of the Code and Article 3 of Convention No. 23. While under this provision of the Convention any seaman who is landed during the term of his engagement or upon its expiration is entitled to repatriation regardless of the time of landing or the reason for the termination of engagement, under Article 78 of the Code of Private Maritime Law, the seaman is not entitled to repatriation if the contract is terminated by the master due to the seaman's misconduct, or when the contract is terminated before one year has elapsed and it was made with respect to a specific voyage. On the other hand, Ratification Law No. 1130 of 1981 which is subsequent to the Code of Private Maritime Law (the latter being adopted in 1958) should be considered according to Section 28 paragraph 1 of the Greek Constitution as prevailing over anterior instruments with which it conflicts.³⁰⁴

The comparison of standards dealing with repatriation of seafarers employed on Greek and Cypriot ships allows the conclusion that under these standards shipowners could obtain certain advantages by registering their ships in Greece and could obtain other advantages by registering their ships in Cyprus. The advantage of registering ships in Greece as compared to Cyprus is a slightly lesser duty to repatriate seamen. However, the advantage of

298. *Id.*

299. *Id.*

300. *Id.* art. 80.

301. *Id.* art. 81.

302. *Id.* art. 51. (indicating matters not specifically addressed by the Title III of the Code, "Master" (including repatriation), the provisions relating to crew shall apply, provided they are compatible with the nature of the master's functions).

303. *Id.* art. 83. The provisions of Title IV and also the Greek collective maritime labor agreements shall apply to alien seamen as well. An alien's right to repatriation shall mean his right to return to the state of which he is a national, or to the port where the voyage commenced or to the place where the contract of engagement was concluded.

304. See KOROTZIS, *supra* note 62, at 272; see also Decision No. 947 adopted in 1985 by the Court of Appeal of Piraeus (Epitheorisi Naftiliakou Dikaioy, Volume No. 14, at 64); Decision No. 778 adopted in 1996 by the Court of Appeals of Piraeus (Epitheorisi Naftiliakou Dikaou, Volume No. 14, at 343) (interpreting Article 28, paragraph 1 of the Greek Constitution).

registration in Cyprus is that the shipowner must only bear the expense of repatriation in certain cases mentioned in Article 4 of Convention No. 23,³⁰⁵ whereas in Greece the shipowner is always financially responsible, except for in the cases provided in Article 78 of the Code of Private Maritime Law.

C. Social Security Standards: Sickness, Injury, and Medical Care

The Appendix to Convention No. 147 lists three ILO Conventions dealing with medical care and benefits for sick and injured seafarers: (i) the Shipowners' Liability (Sick and Injured Seamen) Convention of 1936 (Convention No. 55); (ii) the Sickness Insurance (Sea) Convention of 1936 (Convention No. 56); and (iii) the Medical Care and Sickness Benefits Convention of 1969 (Convention No. 130).³⁰⁶ Greece has ratified Convention No. 55,³⁰⁷ and, therefore, must give full effect to its provisions. Cyprus has so far not ratified any of Conventions Nos. 55, 56 or 130. However, for the purposes of substantial equivalence to Article 2(a)(ii) the Government of Cyprus has also selected Convention No. 55.

Convention No. 55 applies to all persons employed on any vessels, other than a ship of war, ordinarily engaged in maritime navigation.³⁰⁸ Governments may make exceptions with regard to people employed on the vessels of public authorities not engaged in trade, coastwise fishing vessels, boats of less than twenty-five gross tons, and wooden ships of primitive build, for those people not employed by the shipowner; or for people employed solely in ports in repairing, cleaning, loading or unloading vessels; members of the shipowner's family; and pilots.³⁰⁹

Article 2

1. The shipowner shall be liable in respect of (a) sickness and injury occurring between the date specified in the articles of agreement for reporting for duty and the termination of the engagement; (b) death resulting from such sickness or injury.³¹⁰

* * *

305. Law 12(III), 1995, art. 6 (Cyprus) (ratifying the Repatriation of Seamen Convention of 1926 (Convention No.23)).

306. ILO, Medical Care and Sickness Benefits Convention, C. 130 (1969) available at www.ilo.org/ilolex/english/iloquery.htm [hereinafter Convention No. 130].

307. Law 366 of 1968, Official Gazette A 88 (Apr. 27, 1968) (entered into force for Greece on June 19, 1969 (ratifying ILO Convention No. 55)).

308. ILO, Shipowners' Liability (Sick and Injured Seamen) Convention, C. 55, art. 1, ¶ 1 (1936), available at www.ilo.org/ilolex/english/iloquery.htm [hereinafter Convention No. 55].

309. *Id.* art. 1, ¶ 2.

310. *Id.* art. 2, ¶ 1.

Article 4

1. The shipowner is liable to defray the expense of medical care (treatment, medicines and therapeutic appliances), board and lodging until the sick or injured seafarer has been cured, or until the sickness or incapacity has been declared of a permanent character.³¹¹

2. Provided that national laws or regulations may limit the liability of the shipowner to defray the expense of medical care and maintenance to a period which shall not be less than sixteen weeks from the day of the injury or the commencement of the sickness.³¹²

This liability may be further limited by law in cases where seafarers are covered by compulsory national sickness and accident insurance schemes or workers' compensation for accidents.³¹³

Article 5

1. Where the sickness or injury results in incapacity for work the shipowner shall be liable (a) to pay full wages as long as the sick or injured person remains on board; (b) if the sick or injured person has dependants, to pay wages in whole or in part as prescribed by national laws or regulations from the time when he is landed until he has been cured or the sickness or incapacity has been declared of a permanent character.³¹⁴

2. Provided that national laws or regulations may limit the liability of the shipowner to pay wages in whole or in part in respect of a person no longer on board to a period which shall not be less than sixteen weeks from the day of the injury or the commencement of the sickness.³¹⁵

Article 6

1. The shipowner shall be liable to defray the expense of repatriating every sick or injured person who is landed during the voyage in consequence of sickness or injury.³¹⁶

* * *

Article 7

1. The shipowner shall be liable to defray burial expenses in case of death occurring on board, or in case of death occurring on shore if at the time of his death the deceased person was entitled to medical care and maintenance at the shipowner's expense.³¹⁷

* * *

Article 8

National laws or regulations shall require the shipowner or his representative to take measures for safeguarding property left on board

311. *Id.* art. 4, ¶ 1.

312. *Id.* art. 4, ¶ 2.

313. *Id.* arts. 4, ¶ 3; 5, ¶ 3.

314. *Id.* art. 5, ¶ 1.

315. *Id.* art. 5, ¶ 2.

316. *Id.* art. 6.

317. *Id.* art. 7, ¶ 1.

by sick, injured or deceased persons to whom this Convention applies.³¹⁸

* * *

Article 11

This Convention and national laws or regulations relating to benefits under this Convention shall be so interpreted and enforced as to ensure equality of treatment to all seamen irrespective of nationality, domicile or race.³¹⁹

In order to satisfy the principle of "substantial equivalence," as was indicated by the Committee of Experts, the shipowners must, subject to certain limitations, be made liable for sickness and injury occurring on board; medical care and maintenance should be defrayed for up to at least sixteen weeks: although shipowner liability ceases where there is a compulsory insurance scheme (perhaps of the kind anticipated in Convention No. 56), it may not so cease in respect of foreign workers or those not resident in the territory who are excluded as such from the scheme (Article 4); wages while on board should be paid plus whole or partial wages from the time landed, subject to the same conditions as in Article 4 (Article 5); there is liability for repatriation (Article 6) and burial expenses (Article 7); there is provision for equality of treatment irrespective of nationality, domicile or race (Article 11).³²⁰

Convention No. 55 is applied in Cyprus on the basis of "substantial equivalence." Part III of Law No. 13(III) of 1995 deals with the responsibility of the shipowner in the event of sickness, injury, or death of seamen.³²¹ This part is not applied to persons working on ships belonging to the public legal entities of Cyprus, when these ships are not used for commercial purposes, on small ships used for inshore fishing, on small ships of a total tonnage less than twenty-five register tons, or on wooden ships of a primitive build, such as Arab and Chinese sailing ships. Nor does it apply to persons working aboard on behalf of an employer other than the shipowner, persons working exclusively at the port for repairing, cleaning, loading and unloading the ships, the family members of the shipowner, or to navigators.

Law No. 13(III) of 1995³²² also transposes the requirements of Convention 55 with respect to the substance of the shipowner's liability.³²³ In the event of illness or injury of a seaman which occurs during his services on the ship, the shipowner is liable to provide or

318. *Id.* art. 8.

319. *Id.* art. 11.

320. General Survey, *supra* note 37, § 134, at 71.

321. Law No. 13(III), 1995, pt. III (Cyprus).

322. *Id.* § 7(1).

323. Convention No. 55, *supra* note 307, art. 2, ¶ 1.

cover the expenses of his medical care and maintenance until he is completely cured or until the sickness or the resulting incapacity has been declared of a permanent character, provided that the shipowner may contractually limit such liability to a period of not less than sixteen weeks from the day of the injury or the commencement of the sickness of the seaman, as the case may be. In addition, Cypriot legislation provides that, in the event of death of a seaman during his service on the ship, the funeral expenses are chargeable to the shipowner.³²⁴ Moreover, exceptions are prescribed by Law No. 13(III) of 1995,³²⁵ reflecting the relevant provisions of Convention No. 55. Under this Law, the shipowner can refute his responsibility resulting from the foregoing provisions, if he can prove either that (a) the injury of the seaman was the result of another event which did not happen during his service aboard; (b) the injury, the death, or the sickness of the seaman was the result of a willful act or omission, or the result of improper behavior³²⁶ of the sick, the injured, or the deceased seaman; or (c) the sickness or the disablement was deliberately disguised by the time of being engaged by the employment contract.

As to medical care and maintenance, which the shipowner must cover,³²⁷ under the legislation of Cyprus the shipowner has the responsibility of providing for or covering medical and pharmaceutical expenses.³²⁸ It is not clear in the provisions in question whether this obligation to provide medical and pharmaceutical care also includes board and lodging, the latter being specifically provided for in Convention No. 55.³²⁹

In accordance with the provisions of the Convention,³³⁰ Cypriot legislation provides that in the event of sickness or injury of a seafarer which occurs during his service on the ship, the shipowner is liable to defray the expenses of medical care until the seafarer has been cured or until the sickness or the resulting incapacity has been declared of a permanent character.³³¹ In spite of the above, a shipowner's liability may be limited in connection with medical care and maintenance, provided that a period of not less than sixteen weeks from the day of the injury or the commencement of the sickness is respected.³³² A shipowner's liability is also limited when the seaman has access to other medical benefits such as compulsory

324. Law No. 13(III) § 10.

325. *Id.* § 11(1).

326. It should be noted that Law No. 13(III) does not specifically define the meaning of "improper behavior."

327. Convention No. 55, *supra* note 307, art. 3.

328. Law No. 13(III), 1995, § 7(1) (Cyprus).

329. Convention No. 55, *supra* note 307, art. 3(b).

330. *Id.* art. 4, ¶ 1.

331. Law No. 13(III), § 7(1).

332. Convention No. 55, *supra* note 307, art. 4, ¶ 2; Law No. 13(III) § 7(1).

sickness insurance, compulsory accident insurance, or workmen's compensation for accidents schemes,³³³ in which case shipowner liability ends from the moment the sick or injured seamen (a) becomes entitled to medical care and maintenance by virtue of any governmental or semi-governmental compulsory sickness or accident insurance scheme for accidents in force; (b) becomes entitled to medical care and maintenance provided or covered by a recognized private insurance organization; or (c) would become entitled to medical care and maintenance by virtue of any governmental or semi-governmental, or private sickness insurance scheme, but due to his own negligence or omission, he did not become entitled, when with the contract of his employment he agreed to give an amount (included in his salary) to insure himself with any of the above-mentioned sickness insurance schemes.

In addition to these provisions, similar provisions are also laid down both in the Convention³³⁴ and in national legislation³³⁵ with regard to the cessation of a shipowner's liability in the case where compulsory sickness or accident insurance is activated leading to cash benefits to the seaman. To be more precise, Cypriot legislation prescribes that the responsibility of the shipowner to pay wages is restricted and the amount reduced proportionally from the moment the ill or injured seaman: (a) becomes a beneficiary to monetary allowances or benefits by virtue of any state or semi-governmental obligatory medical or injury insurance, or of any plan for compensation of labor accidents, valid in the Republic of Cyprus or abroad; (b) becomes a beneficiary to monetary allowances or benefits provided by a recognized private insurance organization; or (c) would become beneficiary to monetary benefits or allowances by virtue of any state, semi-governmental or private insurance plan covering illness expenses, but because, when concluding his engagement contract, he undertook the responsibility of being insured under one of the above mentioned insurance plans and of covering the expenses with a special sum included in his salary.

When the sickness or the injury of the seaman results in incapacity for work, under national legislation, the shipowner also has the responsibility of paying wages for the whole time that the sick or injured seaman remains aboard, and from the moment of the sick or injured seaman's disembarkation, of paying his wages in whole or in part, as provided in his employment contract, until the seaman has completely recovered or until his illness or incapacity have been declared of a permanent character, provided that the shipowner may contractually limit his responsibility to a period not less than sixteen

333. Convention No. 55, *supra* note 307, art. 4, ¶ 3; Law No. 13(III) § 7(2).

334. Convention No. 55, *supra* note 307, art. 5, ¶ 3.

335. Law No. 13(III) § 8(2).

weeks from the day of the seaman's injury or the commencement of his sickness, as the case may be.³³⁶ This law reflects the relevant provision of Convention No. 55.³³⁷

Repatriation is also an issue dealt with by the Convention³³⁸ and national provisions. Law 12(III) of 1995 ratifying the Repatriation of Seamen Convention of 1926 (Convention No.23) is applicable to all seamen working on Cypriot ships regardless of their residence status in Cyprus. The shipowner has the obligation and bears the charge of the expenses to provide for the repatriation of seamen.³³⁹ Furthermore, according to Cypriot legislation, each seaman, at the end of his engagement, has the right to choose the place of his repatriation from among the destinations mentioned in Article 3 of Convention No. 23.³⁴⁰

In the event of death of a seaman during his service on the ship, national provisions laid down in Law No. 13(III) of 1995 provide for the funeral expenses to be chargeable to the shipowner. In the context of the seaman's sickness, injury or death, the shipowner or his representative is responsible for taking measures as regards the seaman's personal belongings, an obligation prescribed by Cypriot legislation³⁴¹ in accordance with the relevant requirements stemming from Convention No. 55.³⁴² In the event of disputes arising from the application of these provisions,³⁴³ Law 13(III) of 1995 states that any parties to the dispute should follow the procedure of labor disputes settlement laid out in the Code of Industrial Relations.³⁴⁴ Therefore, the provisions of the legislation of Cyprus are substantially equivalent to Convention No. 55.

Social security measures under Law No. 13(III)/1995 are applicable only to those few seafarers employed on Cypriot ships whose permanent residence is in the Republic of Cyprus. The terms and conditions of the employment of those seafarers whose place of permanent residence is in a country which has concluded a bilateral agreement on merchant shipping with Cyprus³⁴⁵ ensures similar treatment for them. Those seafarers whose place of permanent residence is in a country which has not concluded such a bilateral agreement with Cyprus are currently not covered by social security measures under Law No. 13(III)/1995.

336. *Id.* § 8(1).

337. Convention No. 55, *supra* note 307, art. 5, ¶ 2.

338. *Id.* art. 6, ¶ 1.

339. Law No. 12(III), 1995, § 4 (Cyprus).

340. *Id.* § 7.

341. Law No. 13(III), 1995, § 10 (Cyprus).

342. Convention No. 55, *supra* note 307, art. 8.

343. *Id.* art. 9.

344. Law No. 13(III), § 13.

345. For a list of countries which have concluded such bilateral agreements with Cyprus, *see supra* note 163.

Title IV "The Crew" of the Code of Private Maritime Law, Law No. 551 of 1915 (as amended),³⁴⁶ ratification Law No. 366 of 1968,³⁴⁷ Law No. 373 of 1968,³⁴⁸ and Legislative Decree No. 2652 of 1953³⁴⁹ give effect to Convention No. 55 in Greece. Under the Code, a seaman who falls ill is entitled to wages and medical treatment at the expense of the ship. If the contract of engagement is terminated by reason of his illness and he receives medical treatment off the ship, he is entitled to medical treatment and wages while his illness lasts, but not for more than four months.³⁵⁰ These provisions also apply to violent accidents, and if the seaman is thereby rendered unfit for work or dies as a result thereof, the special provisions of the law relating to compensation for industrial accidents applies.³⁵¹ Under a settlement of claims, a special wage may be stipulated.³⁵² These provisions, insofar as they relate to wages and compensation, does not apply in cases when the illness is the seaman's own fault.³⁵³

In the event of work accidents, under Law No. 551 of 1915, any accident happening to a wage-earning or salaried employee engaged in specified occupations or undertakings,³⁵⁴ during the performance of, or in connection, with his work, must give that employee a claim to compensation against the owner of the undertaking if the interruption of work due to the accident lasted more than four days, unless the victim caused the accident intentionally.³⁵⁵ In the event of the victim's death, compensation due under the law is paid to his relatives.³⁵⁶ The shipowner is exempt, under Law No. 366 of 1968, from these Convention No. 55 obligations if the seaman refuses to

346. Law No. 551 of 1915 respecting liability for payment of compensation to wage earners or salaried employees who are victims of industrial accidents (as amended), Law No. 551 of 1915, Official Gazette A 11 (Jan. 8, 1915) (Greece) [hereinafter Law No. 551].

347. Law No. 366 of 1968, Official Gazette A 88 (Apr. 27, 1968) (Greece) (ratifying Convention No 55) [hereinafter Law No. 366].

348. Law No. 373 of 1968, Official Gazette A 79 (Apr. 15, 1968) (Greece) (census and education related to merchant shipping and other provisions).

349. Legislative Decree No. 2652 of 1953, Official Gazette, A 297 (Oct. 30, 1953) (Greece) (to amend and supplement Law No. 1752 of 1951, respecting employment at sea).

350. Code of Private Maritime Law, *supra* note 62, art. 66, ¶ 1. As was clarified by Article 19 of Law No. 373 of 1968, the true meaning of the provision in Article 66 of the Code is that termination of a contract of engagement by reason of a seaman's illness or accidental injury shall not be considered a rescission of the contract by the master; the seaman shall not, therefore, be entitled additionally to compensation under Article 75 of the Code of Private Maritime Law.

351. *Id.* art. 66, ¶ 2.

352. *Id.* art. 66, ¶ 3.

353. *Id.* art. 67.

354. Law No. 551, *supra* note 345, § 2 (specifically indicating owners of water transport undertakings).

355. *Id.* § 1.

356. *Id.* § 6.

undergo medical examination at the conclusion of his contract of engagement.³⁵⁷

Under the Convention, as long as the sick or injured person remains on board, the shipowner is liable for full wages.³⁵⁸ For the person no longer on board, under national laws or regulations, the shipowner may be allowed to pay partial wages for a period of not less than sixteen weeks from the day of the injury or the commencement of the sickness.³⁵⁹ Nevertheless, the Code of Private Maritime Law allows for the stipulation of a "special wage" for the purpose of settlement of wage claims in the event of sickness or accident.³⁶⁰ This "special wage" is laid down in collective agreements,³⁶¹ and it may be lower than the full wage, but must be reasonable.³⁶² Taking into account that Convention No. 55 provides for partial wages only in the case of sick or injured persons no longer on ships, Greek legislation does not give full effect to Article 5 of Convention No. 55 to the extent that a "special" wage, which may be lower than a full wage, may be provided for a sick or injured seaman on board. Nevertheless, it should be stressed that the provision on "special wage," which is contrary to the Convention, is superseded by the ratification law, the latter being subsequent to the Code.³⁶³

As concerns the repatriation of a sick or injured seaman,³⁶⁴ under the Code of Private Maritime Law, he is entitled to repatriation in the case of termination of the contract by reason of illness or accident. Such a conclusion may be drawn because under the Code in case of termination of a contract of engagement the seaman, as a general rule, is entitled to repatriation,³⁶⁵ and cases of termination of contract by reason of illness or accident are not listed among the exceptions to this rule.³⁶⁶ For the same reason, foreign seamen in such cases are also entitled to repatriation.³⁶⁷ Finally, as concerns the liability to defray burial expenses in case of death,³⁶⁸ under Law No. 551 of 1915 (as amended), the shipowner must defray the cost in case of a seaman's accidental death.³⁶⁹

357. Law No. 366, *supra* note 346, § 2.

358. Convention No. 55, *supra* note 307, art. 5, ¶ 1(a).

359. *Id.* art. 5, ¶ 2.

360. Code of Private Maritime Law, *supra* note 62, art. 66.

361. See KAMVISIS, PRIVATE MARITIME LAW, *supra* note 62, at 219.

362. See KIANTOU PAMBOUKI, MARITIME LAW, *supra* note 62, at 252.

363. Const. § 28, ¶ 1 (Greece) (related to the conflict between anterior national provisions and subsequent provisions stemming from international commitments).

364. Convention No. 55, *supra* note 307, art. 6.

365. Code of Private Maritime Law, *supra* note 62, art. 78, ¶ 1.

366. *Id.* art. 78, ¶ 2.

367. *Id.* art. 73.

368. Convention No. 55, *supra* note 307, art. 7.

369. Law No. 551, *supra* note 345, § 7.

The comparison of social security standards on Greek and Cypriot ships allows the conclusion that shipowners could obtain certain advantages by registering their ships in Cyprus. Even though the possibility of paying "special wages" to a sick or injured seaman who remains on board, which is contrary to Article 5 of Convention No. 55, could offer certain cost savings to shipowners registering their ships in Greece, the exclusion of non-resident seafarers from the social security measures under Law No. 13(III) of 1995 in Cyprus potentially offers far greater cost savings, especially when the respective seafarers come from a country which has not signed a bilateral agreement on merchant shipping with Cyprus.

*D. Shipboard Conditions of Employment and Living Arrangements:
Crew Accommodation*

The standards of crew accommodation on ships are prescribed by the Accommodation of Crews Convention (Revised) of 1949 (Convention No. 92). Both Greece³⁷⁰ and Cyprus³⁷¹ have ratified this Convention and, therefore, are obliged to ensure strict compliance with its provisions. Convention No. 92 applies to every seagoing mechanically propelled vessel, whether publicly or privately owned, which is engaged in the transport of cargo or passengers for the purpose of trade and is registered in a territory in which the Convention is in force.³⁷² It does not apply to vessels of less than 500 tons, vessels primarily propelled by sail but having auxiliary engines, vessels engaged in fishing, whaling, or similar pursuits, and tugs.³⁷³ However, it does apply, where reasonable and practicable, to vessels between 200 and 500 tons, or to persons engaged in usual seagoing routine in vessels engaged in whaling or in similar pursuits.³⁷⁴

Under Convention No. 92, before the construction of a ship is begun, a plan of the ship must be submitted for approval to the competent authority.³⁷⁵ Similar approval must be obtained before the construction of the crew accommodation is begun and before the crew accommodation in an existing ship is altered or reconstructed.³⁷⁶ Convention No. 92 prescribes such specific standards of crew accommodation as, *inter alia*, detailed requirements with respect of their location,³⁷⁷ ventilation,³⁷⁸ heating,³⁷⁹ lighting,³⁸⁰ floor area per

370. Convention No. 92 came into force for Greece on December 2, 1987.

371. Convention No. 92 came into force for Cyprus on March 19, 1996.

372. Convention No. 92, *supra* note 7, art. 1, ¶ 1.

373. *Id.* art. 1, ¶ 3.

374. *Id.* art. 1, ¶ 4.

375. *Id.* art. 4, ¶ 1.

376. *Id.* art. 4, ¶ 2.

377. *Id.* art. 6.

378. *Id.* art. 7.

379. *Id.* art. 8.

person in sleeping rooms and their equipment,³⁸¹ mess room accommodation,³⁸² recreation accommodation,³⁸³ sanitary accommodation,³⁸⁴ and hospital facilities.³⁸⁵

The main act giving effect to the provisions of Convention No. 92 in Greece is the Crew Accommodation Regulations. The Regulations contain detailed requirements with respect to the crew accommodation on Greek ships, covering everything from construction,³⁸⁶ ventilation and air conditioning,³⁸⁷ heating,³⁸⁸ and lighting,³⁸⁹ to floor area of sleeping rooms,³⁹⁰ berths,³⁹¹ furniture and equipment,³⁹² mess rooms,³⁹³ recreation accommodation and libraries,³⁹⁴ water closets, baths and wash basins,³⁹⁵ galleys,³⁹⁶ and hospital facilities.³⁹⁷

Under the Regulations, the floor area per person of sleeping rooms of the master and the crew of cargo ships must be 3.75 square meters in ships of 1,000 to 3,000 tons,³⁹⁸ 4.25 square meters in ships of 3,001 to 10,000 tons,³⁹⁹ and 4.75 square meters in vessels of over 10,000 tons.⁴⁰⁰ The floor area per person of sleeping rooms intended for more than one person in cargo ships must be at least 2.35 square meters in ships of 1,000 to 3,000 tons,⁴⁰¹ and on ships of greater than 3,000 tons, at least five square meters for two persons, 7.50 square meters for three persons, and so forth.⁴⁰²

There seem to be divergences between the provisions of Greek national legislation and several provisions of Convention No. 92. First, while under the Convention there must be no direct opening into sleeping rooms from spaces for cargo and machinery or from

380. *Id.* art. 9.
 381. *Id.* art. 10.
 382. *Id.* art. 11.
 383. *Id.* art. 12.
 384. *Id.* art. 13.
 385. *Id.* art. 14.
 386. Crew Accommodation Regulations arts. 4 (ships over 500 tons), 25 (ships from 100 to 500 tons).
 387. *Id.* arts. 5, 26.
 388. *Id.* arts. 6, 27.
 389. *Id.* arts. 7, 28.
 390. *Id.* art. 10.
 391. *Id.* arts. 13, 33.
 392. *Id.* arts. 14, 34.
 393. *Id.* arts. 15, 35.
 394. *Id.* arts. 16-17, 35.
 395. *Id.* arts. 19, 36.
 396. *Id.* arts. 21, 37.
 397. *Id.* art. 22.
 398. *Id.* art. 10(A)(1)(a).
 399. *Id.* art. 10(A)(1)(b).
 400. *Id.* art. 10(A)(1)(c).
 401. *Id.* art. 10(A)(4)(a).
 402. *Id.* art. 10(A)(4)(b).

galley, lamp, and paint rooms, or from engine, deck, and other bulk storerooms, drying rooms, communal wash places or water closets, and that part of the bulkhead separating such places from sleeping rooms and external bulkheads must be efficiently constructed of steel or other approved substance and must be watertight and gastight,⁴⁰³ under the Crew Accommodation Regulations, those parts of the bulkhead which separate the above compartments from the sleeping rooms must be sufficiently resistant and watertight but only if practicable, airtight.⁴⁰⁴ Furthermore, the Crew Accommodation Regulations do not contain an explicit prohibition on direct openings into sleeping rooms from communal wash places or water closets. Second, while under the Convention main steam and exhaust pipes for winches and similar gear must not pass through crew accommodation,⁴⁰⁵ under the Crew Accommodation Regulations, steam, oil, and hot water pipes, when passing through crew accommodation, must simply be coated with appropriate insulation.⁴⁰⁶ Third, while under the Convention berths must not be arranged in tiers of more than two,⁴⁰⁷ under the Crew Accommodation Regulations, berths may be arranged in tiers of more than two on passenger and fishing vessels.⁴⁰⁸ Fourth, while under the Convention on any ship carrying a crew of fifteen or more on a voyage of more than three days, separate hospital accommodations must be provided,⁴⁰⁹ but under the Crew Accommodation Regulations, separate hospital accommodation must be provided only in ships of 1600 tons and greater.⁴¹⁰ Furthermore, under the Regulations, ships of a total displacement of less than 2,500 tons in which the application of the above requirements are not practicable because of the nature of the voyage may be excepted from the obligation to provide hospital accommodation altogether.⁴¹¹

In Cyprus, Law No 14(III) of 1995 gives effect to Convention No. 92.⁴¹² This Law reproduces the provisions of the Convention while at the same time providing for sanctions, including prohibition of sailing in the event of non-compliance.⁴¹³ The Law provides for the issuance

403. Convention No. 92, *supra* note 7, art. 6, ¶ 2.

404. Crew Accommodation Regulations, art. 3(4).

405. Convention No. 92, *supra* note 7, art. 6, ¶ 6.

406. Crew Accommodation Regulations art. 4(2).

407. Convention No. 92, *supra* note 7, art. 10, ¶ 14.

408. Crew Accommodation Regulations art. 13(3).

409. Convention No. 92, *supra* note 7, art. 14, ¶ 1.

410. Crew Accommodation Regulations art. 22(1).

411. *Id.* art. 22(B).

412. Law No. 14(III), 1995, Official Gazette No. 2980, Supp. I(III) (June 9, 1995) (Cyprus) (ratifying the Convention No. 92).

413. *Id.* §§ 6-8.

of regulations aiming at the application of its provisions and of the relevant ILO requirements.⁴¹⁴

The comparison of the standards dealing with crew accommodation on Greek and Cypriot ships points to the conclusion that shipowners could obtain certain advantages by registering their ships in Greece. Since Law No. 14(III) of 1995 reproduces the provisions of the Convention, the crew accommodation on Cypriot ships must comply with its requirements. On the other hand, the Crew Accommodation Regulations do not give full effect to the provisions of the Convention. This makes the construction and operation of Greek ships less costly for shipowners, because they do not need to comply with the requirements of the Convention concerning construction of airtight bulkheads,⁴¹⁵ direct openings into sleeping rooms from communal wash places or water closets,⁴¹⁶ prohibition on passing of main steam and exhaust pipes for winches and similar gear through crew accommodation,⁴¹⁷ arrangement of berths in tiers of not more than two,⁴¹⁸ and separate hospital accommodation in any ship carrying a crew of fifteen or more on a voyage of more than three days.⁴¹⁹

E. Other Matters Appended to Convention No. 147

1. Articles of Agreement

The matter of seamen's articles of agreements is governed by the Seamen's Articles of Agreement Convention of 1926 (Convention No. 22). Neither Greece nor Cyprus has ratified Convention No. 22; therefore, they apply it on the basis of "substantial equivalence".

Convention No. 22 applies to all seagoing vessels registered in the country of any member ratifying the Convention and to the owners, masters, and seamen of such vessels.⁴²⁰ Under this Convention, all seamen must have signed articles of agreement with the shipowner or his representative.⁴²¹ The agreement may be made

414. *Id.* § 11.

415. Convention No. 92, *supra* note 7, art. 6, ¶ 2.

416. *Id.*

417. *Id.* art. 6, ¶ 6.

418. *Id.* art. 10, ¶ 14.

419. *Id.* art. 14, ¶ 1.

420. ILO, Seamen's Articles of Agreement Convention, C. 22, (1936), art. 1, ¶ 2 available at www.ilo.org/ilolex/english/iloquery.htm (exempting certain categories of vessels from the scope of the application of the Convention) [hereinafter Convention No. 22].

421. *Id.* art. 3, ¶ 1. According to Article 2(b), the term "seaman" includes every person employed or engaged in any capacity on board any vessel and entered on the ship's articles; it excludes masters, pilots, cadets, and pupils on training ships, and duly indentured apprentices, naval ratings, and other persons in the permanent service of a government.

either for a definite period or for a voyage or, if permitted by national law, for an indefinite period.⁴²² These agreement may not contain anything contrary to the provisions of national law or the Convention itself,⁴²³ and must state clearly the respective rights and obligations of each of the parties.⁴²⁴ Each must contain certain particulars prescribed by the Convention.

Convention No. 22 also prescribes the grounds for termination of the agreement for a voyage,⁴²⁵ for a definite period,⁴²⁶ or for an indefinite period,⁴²⁷ leaving it to national law to determine the circumstances in which the owner or master may immediately discharge a seaman and in which the seaman may demand his immediate discharge.⁴²⁸ Under the Convention, every seaman should receive a document containing a record of his employment on the vessel that must not contain any statement as to the quality of the seaman's work or as to his wages.⁴²⁹ Finally, to ensure each seaman understands the nature and extent of his rights and obligations

[N]ational law shall lay down the measures to be taken to enable clear information to be obtained on board as to the conditions of employment, either by posting the conditions of the agreement in a place easily accessible to the crew's quarters, or by some other appropriate means.⁴³⁰

As was stated by the Committee of Experts, the essential features of Convention No. 22 on which substantial equivalence would have to be established must include the provision of a document containing all the main particulars listed in Article 6(3), and adequate protection of the seafarer on termination (Articles 10 to 14) would also be essential.⁴³¹ The matters of seamen's articles of agreement in Cyprus are governed by Part IV of the Merchant Shipping (Masters and Seamen) Law 1963-2002. Its provisions appear to be substantially equivalent to Convention No. 22. Under this law, the master of every Cypriot ship (except ships of less than five tons exclusively employed in trading within such limits as may be prescribed) must enter into an agreement in accordance with Part IV of the Law with every seaman whom he carries to sea from any port.⁴³² In accordance with the law, every agreement with the crew must be in prescribed form, dated at the time of its first signature,

422. *Id.* art. 6, ¶ 1.

423. *Id.* art. 3, ¶ 5.

424. *Id.* art. 6, ¶ 2.

425. *Id.* art. 10.

426. *Id.*

427. *Id.* arts. 9, 10.

428. *Id.* arts. 11, 12.

429. *Id.* art. 5.

430. *Id.* art. 8.

431. General Survey, *supra* note 37, at 95.

432. Cyprus Masters and Seamen Law, *supra* note 76, § 11(1).

and signed by the master or the owner's agents before a seaman signs the same. In addition, the agreement with the crew must be so framed to allow the inclusion of such legally permissible stipulations as may be agreed between the master and the seaman.⁴³³ The agreement with the crew is concluded by its entry by the Director of the Department of Ports of the Ministry of Communications and Works or the consular officer of the Republic in the ship's article.⁴³⁴

With regard to the document containing a record of employment on the vessel,⁴³⁵ whenever any seaman is discharged at the Port Office from any ship within the Republic, the master of such ship must give the seaman, at the time of such discharge, a signed certificate, specifying the time and nature of service, and the time and the place of discharge, as well as a true written account of his wages and of all deductions made thereof. If the master fails to do so, he becomes liable, upon conviction, for a fine not exceeding two hundred pounds.⁴³⁶ As concerns information to be obtained on board as to the conditions of employment, Cypriot sea-going ships have to place in an accessible and visible place in the crew accommodation rooms a copy of the Merchant Shipping (Masters and Seamen) Law 1963-2002 concerning the provisions on the rights and obligations of seamen.⁴³⁷ The Merchant Shipping (Masters and Seamen) Law 1963-2002 also prescribes the particulars to be included in the agreement with the crew.⁴³⁸

As far as the duration of the agreement is concerned, the Merchant Shipping (Masters and Seamen) Law 1963-2002 does not provide for the conclusion of the agreement for an indefinite period. The agreement with the crew may be either for a voyage or voyages defined in the agreement or for a definite period, provided that (a) the voyage must include all the voyage in ballast to the loading port; (b)

433. *Id.* § 12(5).

434. *Id.* § 12(2).

435. Convention No. 22, *supra* note 419, art. 5, ¶ 1.

436. Cyprus Masters and Seamen Law, *supra* note 76, § 18(3).

437. Law No. 13(III), 1995, § 30 (Cyprus).

438. In accordance with Section 12(3) of the Cyprus Masters and Seamen Law, the agreement with the crew shall contain as terms thereof the following particulars: (a) the full name of the seaman, the date and place of his birth and his domicile; (b) either the nature and, as far as practicable, the duration of the intended voyage or engagement, or the maximum period of the voyage or engagement, and the places or parts of the world, if any, to which the voyage or engagement is not to extend; (c) the place and time at which each seaman is to be on board or to begin work; (d) the capacity in which each seaman is to serve and the nature of his duties; (e) the amount of wages which each seaman is to receive; (f) a scale of the provisions which are to be furnished to each seaman; (g) any regulations as to conduct on board and as to fines, short allowance of provisions or other lawful punishment for misconduct which have been approved by the Council of Ministers as regulations proper to be adopted and which the parties agree to adopt. *See* Cyprus Masters and Seamen Law, *supra* note 76, § 12(3).

the voyage must be terminated upon the discharge of the cargo at the port of destination as provided in the agreement; and (c) if the definite period provided in the agreement should expire in the course of a voyage such period must be prolonged until the conclusion of the disembarkation of the passengers or the discharge of the cargo or both at the port of destination.⁴³⁹

Under the law, an agreement with the crew must be terminated: (a) at the end of the agreed term; (b) upon the loss of the ship; (c) upon the wreck or loss of the Cypriot flag; or (d) upon the sale of the ship by public auction.⁴⁴⁰ The master may terminate the agreement: (a) if the seaman fails, without reasonable cause, to join or rejoin the ship as per the agreement; (b) for grave misconduct of the seaman; or (c) when the ship becomes unseaworthy.⁴⁴¹ A seaman may terminate the agreement (a) if entered for a definite period on notice given in the prescribed form after a year of its entry or where the ship lies in a Cypriot port for a period of over three months or (b) at any time when the master is guilty of grave infringement of his duties towards the seaman.⁴⁴²

Cypriot legislation is not very clear as to the possibility of terminating the agreement by mutual consent of the parties. Moreover, even though general law prescribes the termination,⁴⁴³ the Merchant Shipping (Masters and Seamen) Law 1963-2002 does not specifically provide for termination in case of death of seamen. In addition, termination is provided for in the case of loss of the vessel⁴⁴⁴ but also under conditions with regard to unseaworthiness of the vessel.⁴⁴⁵ Termination may also be caused under Cypriot legislation in the event of the ship's sale by public auction.⁴⁴⁶ Cypriot legislation does not seem to meet the Convention's requirement regarding the annual leave with pay granted to the seaman after one year service with the same shipping company.⁴⁴⁷

The matters of seamen's articles of agreement in Greece are governed by Title IV, "The Crew," of the Code of Private Maritime Law, which is applicable to ships and, by analogy, to any other floating structures as well.⁴⁴⁸ Under the Code, the contract of engagement must be dated and signed by the parties and by a harbor

439. *Id.* § 12(4).

440. *Id.* § 13(1).

441. *Id.* § 13(2).

442. *Id.* § 13(3).

443. Madella, *supra* note 57, at 403.

444. Cyprus Masters and Seamen Law, *supra* note 76, § 13(1)(b).

445. According to Section 13(2)(c) of the Cyprus Masters and Seamen Law, in case of unseaworthiness of the vessel, the master may terminate the agreement. *Id.* § 13(2)(c).

446. *Id.* § 13(1)(d).

447. Convention No. 22, *supra* note 419, art. 6, ¶ 3.

448. Code of Private Maritime Law, *supra* note 62, tit. IV.

master or consul, who must also certify any declaration of illiteracy made by the seaman engaged.⁴⁴⁹ The contract of engagement may be made for a fixed period,⁴⁵⁰ for a voyage,⁴⁵¹ or for an indefinite period.⁴⁵² The Code of Private Maritime Law also prescribes certain formalities with respect to the completion of the contract,⁴⁵³ and some particulars of its contents.⁴⁵⁴

Under the Code of Private Maritime Law, any contract of engagement of a seaman is terminated upon loss of the ship; loss of the Greek flag; or alienation at public auction.⁴⁵⁵ The master may rescind the contract on the grounds of unseaworthiness of the ship or unlawful absence of the seaman.⁴⁵⁶ Furthermore, a contract of engagement may be terminated at any time by the master, who need not give prior notice of termination.⁴⁵⁷ A contract of engagement of indefinite duration may be terminated after nine months have elapsed from its conclusion. If the port of destination of the ship lies outside the Mediterranean, the Red Sea, the Persian Gulf, or Europe, the contract may be terminated by the seaman after eleven months have elapsed.⁴⁵⁸ Termination takes effect after expiration of notice of termination, which may not be of less than seven days and is always extended until the arrival of the ship in port.⁴⁵⁹ The seaman is entitled to terminate the contract before expiration of the above periods of nine or eleven months if the ship is lying in a Greek port.⁴⁶⁰ A contract of engagement of indefinite duration, which is terminated after nine or eleven months has elapsed, must be extended if the port of destination of the ship lies outside the Mediterranean, the Red Sea, the Persian Gulf, or Europe, for a maximum period of one month, in order to find a replacement for the seaman who has terminated the contract.⁴⁶¹ On the other hand, a contract of engagement of fixed or indefinite duration may be terminated by the seaman at any time if

449. *Id.* art. 54, ¶ 2.

450. *Id.* art. 70.

451. *Id.* art. 71.

452. *Id.* art. 73.

453. *Id.* art. 54, ¶ 2.

454. In accordance with paragraph 1 of Article 54 of the Code of Private Maritime Law, the contract of engagement shall state: (a) the name of seaman engaged, the place and date of his birth, the district and number of his enrolment and the capacity in which he serves; (b) the name, tonnage and international call sign of the ship; (c) the name of the ship owner and, in the case of a co-ownership, of the manager, and the name of the master; (d) the wage; and (e) the duration of the contract. *Id.* art. 54, ¶ 1.

455. *Id.* art. 68.

456. *Id.* art. 69.

457. *Id.* art. 72.

458. *Id.* art. 73, ¶ 1.

459. *Id.* art. 73, ¶ 2.

460. *Id.* art. 73, ¶ 3.

461. *Id.* art. 73, ¶ 4.

the master commits a serious breach of his duties towards the seaman.⁴⁶²

It appears that the provisions of the Fourth Title of the Code of Private Maritime Law are not substantially equivalent to Convention No. 22. First, while under the Convention the existence of the right of a seaman to terminate an agreement for an indefinite period does not depend on the expiration of a certain period of service;⁴⁶³ under the Code of Private Maritime Law a contract of engagement of indefinite duration may be terminated after either nine or eleven months have elapsed, depending on the port of destination.⁴⁶⁴ Second, while under Convention No. 22 the notice of termination of a contract must not be less than twenty-four hours and must be given in writing,⁴⁶⁵ under the Code, a contract of engagement may be terminated at any time by the master, who is not obliged to give prior notice of termination.⁴⁶⁶ Third, while under Convention No. 22 total unseaworthiness of the vessel results in the termination of an agreement,⁴⁶⁷ under the Code the unseaworthiness of the ship does not lead to the termination of the contract, but is considered only as a ground for rescission of the contract by the master.⁴⁶⁸

Comparing standards of articles of agreement on Greek and Cypriot ships demonstrates that there are certain advantages to registering ships in Greece. For example, Greek standards are more "flexible" regarding the termination of contract of engagement. Under the Code of Private Maritime Law, a contract of engagement may be terminated at any time by the master, who need not give prior notice of termination, contrary to Article 9 of Convention No. 22. Also contrary to that Article of the Convention, the Code imposes time restrictions on the ability of a seaman to terminate a contract of engagement of indefinite duration. The Code may offer a shipowner protection against additional expenses caused by the need to replace a seaman in the event of the seaman's unexpected termination of his own contract. Finally, the absence of the automatic termination of a contract of engagement in the event of total unseaworthiness of the vessel under the Code could also create potential cost savings for shipowners because in order to find seafarers to work on another ship they would be able to use previously employed seafarers without the need to bear the expenses associated with the recruitment of new seafarers.

462. *Id.* art. 74.

463. *See* Convention No. 22, *supra* note 419, art. 9, ¶ 1.

464. Code of Private Maritime Law, *supra* note 62, art. 73, ¶¶ 1, 2.

465. Convention No. 22, *supra* note 419, art. 9.

466. Code of Private Maritime Law, *supra* note 62, art. 72.

467. Convention No. 22, *supra* note 419, art. 10(c).

468. Code of Private Maritime Law, *supra* note 62, art. 69(a).

2. Freedom of Association, Right to Organize, and Collective Bargaining

The standards for freedom of association are prescribed by the Freedom of Association and Protection of the Right to Organize Convention of 1948 (Convention No. 87) and the Right to Organize and Collective Bargaining Convention of 1949 (Convention No. 98).⁴⁶⁹ Greece⁴⁷⁰ and Cyprus⁴⁷¹ have ratified both of these Conventions and, therefore, must ensure strict compliance with their provisions.

Under Convention No. 87, workers and employers, without distinction whatsoever, have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization.⁴⁷² Workers' and employers' organizations have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organize their administration and activities, and to formulate their programs.⁴⁷³ The public authorities must refrain from any interference which would restrict this right or impede the lawful exercise thereof.⁴⁷⁴ Workers' and employers' organizations are not liable to be dissolved or suspended by administrative authority.⁴⁷⁵

Convention No. 98 protects workers against acts of anti-union discrimination related to their employment.⁴⁷⁶ This protection applies more particularly with respect to acts calculated to (a) make the employment of a worker subject to the condition that he must not join a union or must relinquish trade union membership; and (b) cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours or, with the consent of the employer, within working hours.⁴⁷⁷ Workers' and employers' organizations enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or

469. ILO, Freedom of Association and Protection of the Right to Organize Convention, C. 87 (1948) available at www.ilo.org/ilolex/english/iloquery.htm [hereinafter Convention No. 87]; ILO, Right to Organize and Collective Bargaining Convention, C. 98 (1949) available at www.ilo.org/ilolex/english/iloquery.htm [hereinafter Convention No. 98].

470. Legislative Decree 4204, Official Gazette A 174 (Sept. 19, 1961) (Greece ratified Convention No. 87 with this decree); Legislative Decree 4205, Official Gazette A 174 (Sept. 19, 1961) (Greece ratified Convention No. 98 with this decree). Both Conventions 87 and 98 come into force for Greece on March 30, 1963. *Id.*

471. Both Conventions came into force for Cyprus on May 24, 1967.

472. Convention No. 87, *supra* note 468, art. 2.

473. *Id.* art. 3, ¶ 1.

474. *Id.* art. 3, ¶ 2.

475. *Id.* art. 4.

476. Convention No. 98, *supra* note 468, art. 1, ¶ 1.

477. *Id.* art. 1, ¶ 2.

administration.⁴⁷⁸ Convention No. 98 also requires that measures appropriate to national conditions be taken, where necessary, to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or employers' organizations and workers' organizations, with a view to the regulation of terms and conditions of employment by means of collective agreements.⁴⁷⁹

Freedom of association is provided for in paragraph 2 of Article 21 of the Constitution of Cyprus.⁴⁸⁰ Prior to the ratification of ILO instruments concerning this issue, the Trade Unions Law of 1965 provided for freedom of association.⁴⁸¹ The application of Conventions Nos. 87 and 98 in Cyprus is ensured by Law No. 17/66 Concerning the Ratification of the Freedom of Association and Protection of the Right to Organize Convention of 1948 (Convention No. 87) of 1966 and Law No. 18/66 Concerning the Ratification of the Right to Organize and Collective Bargaining Convention of 1949 (Convention No. 98) of 1966. Both ratification laws reproduce the provisions of the above-mentioned Conventions.

The main acts giving effect to Conventions Nos. 87 and 98 in Greece are Law No. 3239 of 1955 on the procedures for the settlement of collective labor disputes,⁴⁸² Law No. 330 of 1976 concerning occupational unions and federations,⁴⁸³ Law No. 1264 of 1982 respecting the democratization of the trade union movement and the protection of workers' trade union freedoms,⁴⁸⁴ Law No. 1915 of 1990 respecting the protection of trade union rights, the protection of the whole population and the financial independence of the trade union movement,⁴⁸⁵ and Law No. 2224 of 1994 on the regulation of matters

478. *Id.* art. 2, ¶ 1. Article 2, paragraph 2 indicates that, in particular, acts which are designed to promote the establishment of workers' organizations under the domination of employers or employers' organizations, or to support workers' organizations by financial or other means, with the object of placing such organizations under the control of employers or employers' organizations, shall be deemed to constitute acts of interference within the meaning of this Article. *Id.* art. 2, ¶ 2.

479. *Id.* art. 4.

480. CONST. art. 21, ¶ 2 (Cyprus), available at http://www.oefre.unibe.ch/law/icl/cy00000_.html.

481. See Madella, *supra* note 57, at 362.

482. Law No. 3239 of 1955, Official Gazette A 125 (May 20, 1955) (Greece) (discussing the procedures for the settlement of collective labor disputes).

483. Law No. 330 of 1976, Official Gazette A 129 (May 29, 1976) (Greece) (respecting occupational unions and federations).

484. Law No. 1264 of 1982, Official Gazette A 79 (July 1, 1982) (Greece) (discussing the democratization of the trade union movement and the protection of workers' trade union freedoms).

485. Law No. 1915 of 1990, Official Gazette A 186 (Dec. 28, 1990) (Greece) (respecting the protection of trade union rights, the protection of the whole population, and the financial independence of the trade union movement).

of work, trade union rights, hygiene and safety of workers, and other provisions.⁴⁸⁶

Notably, Law No. 1264 of 1982 specifically excludes seafarers' organizations from the scope of its application.⁴⁸⁷ According to the information transmitted by the Government to the ILO, in addition to the provisions of Articles 12 and 23 of the Greek Constitution, seafarers' freedom of association is governed by a special legal regime which provides protection for members of the administration of maritime organizations, the right to strike, the procedure for proclaiming a strike, obligations during the strike for the safety of the vessel, and the protection of vital needs of the community.⁴⁸⁸ This special legal regime is prescribed by Articles 26 to 28, 32 to 38, 40 and 42 of Law No. 330 of 1976, concerning occupational associations and federations and the protection of freedom of association.⁴⁸⁹

Law No. 257 of 1968 concerning maritime trade unions and federations,⁴⁹⁰ containing a number of provisions contrary to Convention No. 87, was abolished by Legislative Decree No. 85 of

486. Law No. 2224 of 1994, Official Gazette A 112 (July 6, 1994) (Greece) (discussing the regulation of matters of work, trade union rights, hygiene and safety of workers, and other provisions).

487. In accordance with Section 1(2)(b) of Law No. 1264 of 1982, the law does not apply to seafarers' organizations. See Law No. 1264 of 1982 § 1(2)(b) (Greece). Until a special act is passed and published, these will continue to be governed by the present statutory system. The exact reasons for the exclusion are not clear. As was stated in the complaint presented to the ILO in 1982 by the Pan-Hellenic Union of Merchant Marine Mechanics against the Government of Greece (Case No. 1167), the government was being pressured by the shipowners, with their international capital, to maintain the policy of the preceding governments of excluding the seafarers' unions from the legal provisions which were in force for other trade unions and workers. As a consequence, seafarers remained subject to legislative provisions which dated back to 1920 and which constituted, according to the Union, a measure of discrimination. The government responded that, given the special occupational circumstances pertaining to seafarers, a specific legislative text designed to establish both the democratization of the seafarers' trade union movement and a greater consolidation of their freedom of association had been announced and was currently being drafted. The government gave assurances that the preparation of this text would take into account the views of all the seafarers' associations as well as of the legislation and practice currently in force at the international level concerning the merchant marine. See ILO, Official Bulletin, Vol. LXVI, ser. B, No. 2, 16-18.

488. See ILC, Report of the Committee of Experts on the Application of Conventions and Recommendations, 89th Sess., Report III (Part 1A) 269-70 (ILO, Geneva, 2001).

489. Law No. 330 of 1976, Official Gazette No. 129, pt. I (dated May 29, 1976) (respecting occupational associations and federations and the protection of freedom of association). In accordance with Section 1(4) of Law No. 330/1976, its provisions, with the exception of Articles 26 to 28, 32 to 38, 40 and 42, shall not apply to journalists' and seafarers' organizations, which shall be subject to special provisions. Law No. 330 of 1976 § 1(4).

490. Law No. 257 of 1968, Official Gazette A 9 (Jan. 18, 1968) (Greece) (concerning maritime trade unions and federations).

1974 on the restoration of freedom of association of workers at sea.⁴⁹¹ Neither the foregoing legislative decree nor the Law No. 5 of 1975⁴⁹² which followed ensured a comprehensive legal regime on the freedom of association of seafarers because Legislative Decree No. 85 of 1974 constituted a transitional regime mainly governing seafarers' trade union elections and leaving all other issues concerning the matter out of its scope. Subsequent Law No. 5 of 1975 was complementary to the decree.⁴⁹³ Referring to the exclusion of seafarers' organizations from Law No. 1264 of 1982, over the last twenty years, the Committee of Experts has repeatedly urged the government to extend the general protection concerning freedom of association to seafarers and their organizations and to guarantee seafarers the full enjoyment of the rights embodied in the Convention, but so far the situation has not changed.⁴⁹⁴

The comparison of the standards dealing with freedom of association on Greek and Cypriot ships demonstrates that shipowners could obtain certain advantages by registering their ships in Greece in the sense that the seafarers' trade unions may be viewed as a countervailing power to challenge the shipowners' domination in the

491. Legislative Decree 85 of 1974, Official Gazette A 287, art. 1 (Oct. 5, 1974) (Greece).

492. Official Gazette A 16 (Feb. 6, 1975).

493. See also S.G. VLASTOS, CIVIL ASSOCIATIONS AND UNIONS OF EMPLOYERS AND EMPLOYEES 35 (P. N. Sakkoulas ed., 1996). See generally Pan. G. Papatheodoropoulos, *About the Irregular Legal Regime Governing Seafarers' Trade Unions: a Proposal for Immediate Intervention*, 23 EPITHEORISI NAFTILLAKOU DIKAIΟΥ 466 (1995).

494. See, ILC, Report of the Committee of Experts on the Application of Conventions and Recommendations, 69th Sess., Report III (pt. 1A) 141 (ILO, Geneva, 1983); ILC, Report of the Committee of Experts on the Application of Conventions and Recommendations, 71st Sess., Report III (pt. 1A) 150-51 (ILO, Geneva, 1985); ILC, Report of the Committee of Experts on the Application of Conventions and Recommendations, 73rd Sess., Report III (pt. 1A) 183-84 (ILO, Geneva, 1987); ILC, Report of the Committee of Experts on the Application of Conventions and Recommendations, 77th Sess., Report III (pt. 1A) 200-02 (ILO, Geneva, 1990); ILC, Report of the Committee of Experts on the Application of Conventions and Recommendations, 78th Sess., Report III (pt. 1A) 176-77 (ILO, Geneva, 1991); ILC, Report of the Committee of Experts on the Application of Conventions and Recommendations, 80th Sess., Report III (pt. 1A) 198-200 (ILO, Geneva, 1993); ILC, Report of the Committee of Experts on the Application of Conventions and Recommendations, 82nd Sess., Report III (pt. 1A) 170 (ILO, Geneva, 1995); ILC, Report of the Committee of Experts on the Application of Conventions and Recommendations, 85th Sess., Report III (pt. 1A) 170-71 (ILO, Geneva, 1997); ILC, Report of the Committee of Experts on the Application of Conventions and Recommendations, 87th Sess., Report III (pt. 1A) 241 (ILO, Geneva, 1999); ILC, Report of the Committee of Experts on the Application of Conventions and Recommendations, 89th Sess., Report III (pt. 1A) 269-70 (ILO, Geneva, 2001); ILC, Report of the Committee of Experts on the Application of Conventions and Recommendations, 91st Sess., Report III (pt. 1A) 262-63 (ILO, Geneva, 2003).

seafaring labor market.⁴⁹⁵ Correspondingly, the more restrictions placed by the national laws and regulations on the creation and operation of seafarers' trade unions, the weaker is their bargaining position in negotiations with shipowners.⁴⁹⁶ While the legislation of Cyprus gives full effect to the provisions of Conventions No. 87 and 98, the legislation of Greece does not fully apply their provisions to seafarers' trade unions. In light of this, seafarers' trade unions in Greece are in a weaker bargaining position.

However, the mechanism of collective agreements, in the essence of collective bargaining, is more favorable to shipowners in Cyprus than in Greece. Whatever the bargaining position of seafarers' trade unions may be, collective agreements in Greece are a compulsory source of law and, in principle, apply to all Greek ships.⁴⁹⁷ This is not the case under Cypriot law, where collective agreements are deprived of legislative force, and as such are not compulsorily applicable to Cypriot ships.⁴⁹⁸ Consequently, shipowners would gain an advantage by registering in Cyprus rather than in Greece.

The comparison of labor standards on Cyprus and Greek ships leads to the conclusion that the registration of ships in Cyprus does not provide overall advantages from the point of view of "inferior" labor standards as compared to those on ships registered in Greece. Broadly speaking, shipowners may gain certain advantages by registering their ships in Cyprus with regard to standards concerning hours of work, manning, repatriation, and social security. However, shipowners may gain different advantages by registering their ships in Greece with regard to standards concerning repatriation of seamen, crew accommodation, and articles of agreement, mostly resulting from non-compliance by Greece with the respective Conventions. This makes it even more important for shipowners to evaluate possible changes in the legislation of Cyprus, resulting from its joining the European Union which might affect savings resulting from lower labor standards.

495. See Heather Leggate & James McConville, *The Economics of the Seafarers Labour Market*, in THE HANDBOOK OF MARITIME ECONOMICS AND BUSINESS 462-63 (Costas Th. Grammenos ed., 2002).

496. Cf. LLOYD G. REYNOLDS ET AL., LABOUR ECONOMICS AND LABOUR RELATIONS 489-90 (11th ed. 1998) ("What Determines Bargaining Power?").

497. See KAMVISIS, MARITIME LABOUR LAW, *supra* note 62, at 450; Athanassios Alykatoras, Maritime Labor Law Issues (unpublished study, on file with author).

498. See Madella, *supra* note 57, at 354.

IV. RECENT DEVELOPMENTS CONCERNING CYPRUS

Cypriot legal order, which naturally includes maritime labor instruments, has been subject in recent years to the great influence of European Community law due to Cypriot membership in the European Union. This process has resulted in an obligation on the part of Cyprus to incorporate, prior to accession, primary and secondary European Union legislation (*acquis communautaire*).⁴⁹⁹ Within the framework of this process, in May 2001, the Chapter on Maritime Transports was closed by the European Commission with regard to Cyprus, which means that Cyprus satisfied the relevant EC requirements in terms of legal harmonization. This development is not irrelevant to the competitiveness of Cypriot registry. Cypriot legal order has had to face the challenge of adapting itself to quality requirements stemming from the European sphere in connection with maritime safety, the protection of the marine environment, and maritime labor standards. Notably, prior to the harmonization process, Cyprus' legal order adopted a number of instruments aiming at quality shipping.

To be more precise, Section 6A of the Merchant Shipping (Registration of Ships, Sales and Mortgages) Law 1963-1996⁵⁰⁰ [as

499. On the relations between Cyprus and the European Communities, *see, e.g.*, European Community Commission Report, *supra* note 8; French National Assembly, Rapport d'information déposé par la délégation de l'Assemblée Nationale de France pour l'Union Européenne sur l'adhésion de la République de Chypre à l'Union Européenne, No 781, Apr. 2003; Patrick R. Hugg, *Cyprus in Europe: Seizing the Momentum of Nice*, 34 VAND. J. TRANSNAT'L L. 1293 (2001); Y. Kranidiotis, *Relations Between Cyprus and the European Community*, 8 GREEK STUDIES YEARBOOK 165-206 (1992); C. LYCOURGOS, L'ASSOCIATION AVEC UNION DOUANIÈRE: UN MODE DE RELATIONS ENTRE LA CEE ET DES ETATS TIERS (1994); K. Agapiou-Josephides, *La perspective de l'adhésion de Chypre à l'Union Européenne*, in REVUE DES AFFAIRES EUROPÉENNES 354 (1996); S. Stavrides, *Double Standards, Ethics and Democratic Principles in Foreign Policy: The European Union and the Cyprus Problem*, 4 MEDITERRANEAN POL., 95, 95-112 (1999); Joseph Joseph, *The EU Enlargement from a Different Angle: The View of Cyprus* (Mar. 17-21, 1998) (unpublished manuscript presented at the ISA Annual Convention in Minneapolis) (on file with the author); A.P. Michaelides, *Cyprus Accession to the European Union: a Vision and a Challenge for Today* (Oct. 30, 1996) (unpublished manuscript presented at the conference "Cyprus in the European Union", organized by the European Institute of the London School of Economics and Political Science and the Hellenic Center), available at <http://www.pio.gov.cy>; Y.A. Stivachtis, *The Enlargement of the European Union: the Case of Cyprus* (paper presented at the International Studies Association, 41st Annual Convention, Los Angeles, CA (Mar. 14-18, 2000)), available at <http://www.ciaonet.org/isa/sty01/>; A. Theophanous, *The European Union and Cyprus*, (Jan. 20, 1998) (unpublished manuscript presented during the Europadialogue, Bonn) (on file with author); European Community Commission Final Opinion on the Application by the Republic of Cyprus for Membership, COM(93)313, June 30, 1993, Brussels.

500. Cyprus Registration of Ships Law, *supra* note 77.

amended by the Merchant Shipping (Registration of Ships, Sales and Mortgages) (Amendment) Law of 1996 (No. 37(I)/96)⁵⁰¹] extends the power of the Minister of Communications and Works to order the revocation of the Cypriot character of a ship and its deletion from the register not only in the case of repeated contraventions or omissions, but also in the case of only one contravention or omission, provided that it affects seriously the seaworthiness or the functional use of the ship, or the working and living conditions of the seafarers on board. The following cases fall within the provisions of the above Amendment Law:

- (a) Where it is discovered, at the time of a casualty or a port/flag state control inspection, or a class transfer survey, that the ship's structural integrity has been seriously impeded.
- (b) Where it is verified that the ship has deficiencies which affect seriously her seaworthiness or the living and working conditions of the crew.
- (c) Failure of the shipowner or other responsible person to take immediate corrective action when deficiencies are identified.
- (d) Failure of the shipowner or other responsible person to provide for the maintenance of the crew and payment of their wages, including repatriation costs, leading, reasonably, to the conclusion that the ship has been abandoned.
- (e) Poor safety record of a ship.
- (f) Failure of a shipowner or other responsible person to fulfill his legal obligations towards the Republic of Cyprus, such as the non-payment of fees and taxes due, the absence of statutory certificates or the non-renewal of the Radio Station License for a long period, the non-response, in timely fashion, to the requests of competent Cypriot authorities for the submission of reports, documents, information, and other details relevant to casualties, detention of substandard vessels, etc., as well as refusal to cooperate with the said authorities in these matters.

In addition to the above, a global network of inspectors of Cypriot ships has been established.⁵⁰² The purpose of this measure is to ensure that Cypriot ships, their crew, and equipment, comply with the applicable provisions of international instruments and Cypriot law. The first phase of implementation of the program, which commenced in May 1996, envisaged the appointment of inspectors at a number of ports in the United States.

501. Merchant Shipping (Registration of Ships, Sales and Mortgages) (Amendment) Law, 1996 (No. 37(I)/96), Gazette No. 3050, Supp. I(I) (Apr. 5, 1996).

502. See Ministry of Communications and Works, Circular No. 12/96 (July 10, 1996) (Cyprus).

As has already been pointed out, policy for quality shipping in Cyprus was particularly enhanced by the European perspective of Cyprus. It may be recalled that the Republic of Cyprus submitted its application for entry into the European Union in 1990. Before this initiative, Cyprus had already linked with the European Communities in the framework of an association agreement dated 1972, which went through several stages before leading to the accession of the Republic of Cyprus to the European Union. The latter accepted Cypriot membership along with nine other candidatures at the European Council of Athens, held in April 2003. In practice, Cyprus will become a full member on May 1, 2004. More importantly, it deserves special mention that Cyprus' membership in the European Community will increase the Community fleet by 20.75 percent,⁵⁰³ and that the fleet under the Cypriot flag will constitute twenty-five percent of the EC fleet.⁵⁰⁴

It would not be an exaggeration to say that the Cypriot shipping sector has been one of the most crucial aspects of negotiation between the Republic of Cyprus and Brussels. Recorded deficiencies of vessels under the Cypriot flag in the framework of port state control⁵⁰⁵ and the position of international fora,⁵⁰⁶ including the European Community, against substandard ships, exercised pressure on the Cypriot registry for significant changes for qualitative shipping.

The principle of non-discrimination between EC nationals on the basis of nationality, which is one of the cornerstones of the EC system, and which has an impact both on the free movement of workers and the free establishment of undertakings,⁵⁰⁷ does not seem to have a significant impact on the Cypriot register with regard to the free movement of seafarers who are EC nationals. This may be explained by the fact that the above-mentioned principle tends to affect legal regimes related to seafarers which are characterized by protectionism (as was the case of the Greek register) and not open registries, which by definition are open to the engagement of foreign seafarers. As to possible restrictions stemming from EC law with regard to the engagement of seafarers originating from non-EC

503. Percentage calculated on the basis of Lloyd's statistical data. Lloyd's Maritime Information Services (Dec. 31, 2001), available at <http://www.lloydsniu.com>.

504. Data made available at the Maritime Conference Cyprus 2003 (Limassol, Cyprus, Sept. 21-24 2003).

505. Paris MOU, Annual Report, app. 1, 21 (2001), available at <http://www.parismou.org>. According to Paris MOU data Black-Grey-White Lists 2001, (Cyprus is ranked on the black list) for the period 1999-2001, 4,167 inspections took place which led to 397 detentions.

506. See, e.g., French National Assembly, *De l'Erika au Prestige: la politique européenne de la sécurité maritime contrariée*, Report No. 644, Mar. 2003; International Commission on Shipping, *Inquiry into Ship Safety: Ships, Slaves and Competition*, available at <http://www.icons.org.au>.

507. See generally VINCENT POWER, *EC SHIPPING LAW* (1992).

member states, at this stage of development of EC law, member states remain substantially free to determine the percentage of foreign seafarers to be employed aboard ships flying their flag.⁵⁰⁸ As far as the right of establishment of undertakings is concerned, there is an issue to be explored further as regards the right of establishment of undertakings (for example, shipping companies) controlled by non-EC interests in Cypriot legal order; nevertheless, this very interesting issue goes beyond the purpose of our study.

In light of the above elements, a number of instruments were adopted aimed at enhancing maritime safety and improving maritime labor standards. Some of these instruments incorporate European Community requirements, while others incorporate international requirements. The Merchant Shipping (Issue and Recognition of Certificates and Marine Training) Law of 2000 [Law 109(I)/2000]⁵⁰⁹ was adopted with a view to bringing into Cypriot legal order requirements related to the STCW convention, as well as European Community requirements on the minimum level of training of seafarers stemming from directive 94/58/EC.⁵¹⁰

The following instruments deserve special mention: The Merchant Shipping (Safe Manning, Hours of Work and Watchkeeping) Law of 2000 [Law 105(I)/2000], the Merchant Shipping (Medical Examination of Seafarers and Issue of Certificates) Law of 2000 [Law 107(I)/2000], the Merchant Shipping (Recognition and Authorization of Organizations) Law of 2001 [Law 46(I)/2001],⁵¹¹ the Merchant Shipping (Port State Control) Law of 2001 [Law 47(I)/2001],⁵¹² and the Merchant Shipping (Minimum Requirements of Medical Treatment on Board Ships) Law of 2002 [Law 175(I)/2002].⁵¹³ Law 47(I)2001, for example, on port state control, which was adopted in Cypriot legal order with a view to harmonization to European Community directive 95/21/EC on port state control,⁵¹⁴ provides in Section 5 that the competent authority, for example, the Ministry of Communications and Works of the Republic of Cyprus and any other authorized person, ensures that

508. See, CHRISTODOULOU-VAROTSI, *supra* note 8, at 228-64.

509. Gazette No. 3419, Supp. I(I) (July 14, 2000) (Cyprus).

510. Council Directive 94/58/EC, 1994 O.J. (L 319) 12.12 (discussing the minimum level of training of seafarers).

511. Gazette No. 3487, Supp. I(I) (Apr. 6, 2001) (Cyprus).

512. *Id.*

513. Gazette No. 3638, Supp. I(I) (Sept. 27, 2002) (Cyprus). A list of Cyprus shipping legislation can be found at the site of the Department of Merchant Shipping of the Republic of Cyprus at <http://www.shipping.gov.cy>.

514. Council Directive 95/21/EC, 1995 O.J. (L 157) 7.7 (concerning the enforcement, in respect of shipping using the Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port state control)).

during the inspections carried out by virtue of the said instrument inspectors ensure the general condition of the ship, including the engine room, officers quarters, and sanitary conditions.

An interesting point with regard to the impact of EC law on Cypriot legal order stems from the implementation of Council Directive 92/92/EEC of March 31, 1992⁵¹⁵ on the minimum safety and health requirements for improved medical treatment on vessels, incorporated in Cypriot legal order with the Merchant Shipping (Minimum Requirements of Medical Treatment on Board Ships) Law of 2002 (Law (175(I)/2002).⁵¹⁶ The national instrument, which reflects the relevant directive, provides for the obligation of Cypriot ships⁵¹⁷ permanently to ensure specific medical supplies on board, which notably depend on the type of the ship and the characteristics of the route. According to the Law, it is the shipowner's or the operator's responsibility to ensure the supplying and renewal of the medical supplies; the employees working on ships which are subject to this obligation should in no instance participate in the coverage of this cost.

In addition, in terms of applicable law, social protection measures stemming from EC law (specific to seafarers or not), revolve around the principle of non-discrimination between EC nationals on the basis of nationality, in the framework of the so-called coordination and aggregation principles.⁵¹⁸ In other words, EC member states remain substantially competent to tackle social protection issues, and in this context specific issues concerning the protection of seafarers from third countries are not at this stage directly affected by the influence of EC shipping law on Cypriot maritime law.⁵¹⁹

As has been pointed out in the Report of the European Commission, Cyprus has to a large extent succeeded in harmonizing its domestic law with EC requirements in the field of maritime transport.⁵²⁰ According to European Commissioner Loyola de Palacio, "the recent efforts of the Cyprus Government to bring its shipping register to the highest possible standard deserve to be recognized. We are convinced that Cyprus is on the right track."⁵²¹ Nevertheless, it should be stressed that if the first step in the improvement of a

515. Council Directive 92/92/EEC, 1992 O.J. (L 113) 19.

516. Gazette No. 3638, Supp. I(I) (Sept. 9, 2002) (Cyprus).

517. For the definition of the term "ships" under Cyprus law, see *supra* note 105.

518. See I. Nicolakopoulou-Stephanou, *The European Social Model: Challenges and Prospects*, in SIMPLIFICATION AND SYSTEMATIZATION OF SOCIAL PROTECTION RULES 101-47 (1996) (concerning the general framework of EC social policy).

519. With regard to seafarers originating from third countries and their conditions of work, see Case C-72/91, *Sloman Neptun Schiffahrts AG v. Seebetriebsrat Bodo Ziesemer der Sloman Neptun Schiffahrts AG*, 1993 E.C.R. I-887.

520. See European Community Commission Report, *supra* note 8, at 62.

521. Speech, Mme de Palacio, given during her official visit to Cyprus (Nov. 17-18, 2002).

registry consists of the adoption of the appropriate legal framework, the work of the legislator ought to be completed by effective implementation, controls and supervision. The practical level of the issue demonstrates that there is room for improvement, since detentions of Cypriot ships for deficiencies in seaworthiness and living and working conditions of seafarers under regional memoranda of understanding on port state control⁵²² are still at a high level. The European Union in the above-mentioned report recalls that while there was a decrease in the detention rate of Cypriot ships in the framework of Paris MOU during 2000 in comparison with year 1999 (9.7 percent and 9.97 percent respectively), this record is still problematic in comparison with the average concerning Member States which is 3.9 percent for the year 2000.⁵²³ In addition, ILO data on the main categories of deficiencies per flag authority⁵²⁴ shows that, as far as Cypriot ships are concerned, for the year 1997 for a total of 1,283 detentions, 198 detentions were related to life-saving appliances, 190 to fire-fighting appliances, 176 to safety in general, 152 to navigation, 109 to marine pollution, ninety-three to load lines, ninety-three to propulsion and auxiliary machinery, seventy-three to ship certificates, fifty-eight to crew, fifty-seven to radio, fifty-two to accommodation, and thirty-two to operational deficiencies (SOLAS).

Last, but not least, a point which does not fall within the scope of this Article but which is of great importance to shipowners is the tax regime. It is provided for in Cypriot legislation⁵²⁵ on the basis of tonnage and has not been directly affected by the recent tax reform which took place in the Republic of Cyprus.⁵²⁶

V. CONCLUSION

Maritime legislation in general and maritime labor standards in particular have traditionally been an explosive issue in both Cyprus and Greece. In the case of Cyprus, registration of foreign ships has been guided by a constant policy protecting shipowners from unpredictable factors and constituting a point of attraction for them. Nevertheless, public opinion has not always been favorable. The case

522. See European Community Commission Report, *supra* note 8, at 61.

523. See *id.*

524. See Impact on Seafarers, *supra* note 2, at 68.

525. See Merchant Shipping (Fees and Taxing Provisions) Laws 1992-2000, Gazette No. 2712, Supp. I(I) (May 29, 1992) (Cyprus); Gazette No. 2963, Supp. I(I) (Mar. 24, 1995) (Cyprus); Gazette No. 3332, Supp. I(I) (June 11, 1999) (Cyprus); Gazette No. 3333, Supp. I(I) (June 18, 1999) (Cyprus); Gazette No. 3679, Supp. I(I) (Jan. 31, 2003) (Cyprus); see also <http://www.shipping.gov.cy/guide-to-shipreg/fees-and-taxes.htm>.

526. See *supra* note 504 (according to the data presented by the steering committee of the above mentioned Maritime Conference Cyprus 2003).

of Greece is obviously different in the sense that, in the past, this country of great maritime tradition followed, at many levels, a protectionist policy, which nevertheless did not prevent an important number of Greek shipowners from opting for foreign registers. More importantly, in the context of the Greek maritime sphere, the efficiency of maritime labor standards was not called into question.

In this context, the example of Cyprus is significant in that an open registry may not automatically be antithetical to adequate labor standards in terms of legal instruments. A realistic approach to the matter may not, however, avoid the issue of the effective application of the instruments in question, and this is the essence of the challenge for the maritime future of Cyprus, which, it should be emphasized, is not contrary to the interests of responsible shipowners. In this respect, the influence of international law and EC law in particular on maritime labor standards, will result in a situation where registration in Cyprus will still be attractive because of the quality requirements stemming from regional and international fora, which should serve to dispel doubts and fears.

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