

### STOWAWAYS FOUND ONBOARD VESSELS BOUND FOR SPANISH PORTS

Valencia, December 2015

This circular aims to provide an overview of the issues surrounding stowaways found onboard vessels destined for Spanish ports. It will attempt to advise upon the treatment of stowaways in accordance with the guidelines set out by the Spanish authorities, in addition to MedPandi's own experience in the handling of stowaways in Spanish ports.

### PROCEDURES FOR VESSEL'S CARRYING STOWAWAYS BOUND FOR SPANISH PORTS

If a stowaway is found onboard a vessel destined for a Spanish port, the following steps should be taken:

- 1) The Master should notify the Spanish authorities of the presence of a stowaway onboard prior to the vessel's arrival at a Spanish port. This document should be signed by the Master and include the following information:
  - Personal details of the stowaway (name, nationality, identification documents, etc.)
  - Port of embarkation (detailing the date, time and location when the stowaway was discovered)
  - Details of the previous ports that the vessel has stayed (detailing the dates and times of arrival/departure)
- 2) Upon the vessel's arrival at a Spanish port, the Immigration Police will attend the vessel in order to interview and confirm the identity the stowaway, and assess the situation regarding the conditions in which the stowaway is being kept, security, etc. In our experience, the Immigration Police normally recommend that private security is put in place in order to ensure that the stowaway does not escape. This is **NOT** mandatory and if the vessel's Master decides that the crew can provide the appropriate security, this will be acceptable to the Spanish authorities, albeit at the Master's own risk.
- 3) It is important that the stowaway is kept in suitable conditions and is provided with the necessary food and water. If the authorities deem that the stowaway is being kept in inhumane and degrading conditions, the stowaway will be disembarked immediately in accordance with the European Convention on Human Rights. In such an event, it is likely that the Spanish authorities would take subsequent action against the vessel and her Master, in the absence of exceptional circumstances which would justify such conditions.
- 4) In the case of the stowaway being a minor (under 18 years of age), they will also automatically be disembarked immediately upon the vessel's arrival into a Spanish port. However, in our experience, stowaways will often give incorrect information when questioned regarding their age, nationality, etc.
- 5) Medical attention will be provided to the stowaway onboard should if it be necessary, unless the situation is more serious and requires the stowaway to be transferred to a hospital.

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- 6) Unless the stowaway needs to be disembarked for humanitarian or medical reasons, they will remain onboard the vessel under the responsibility of the Master. Before the vessel is allowed to sail from a Spanish port with a stowaway still onboard, the Master will need to issue and sign a declaration to the Spanish authorities, acknowledging that the stowaway will remain onboard under the responsibility of the Master.
- 7) All of the costs derived from the presence of the stowaways, whether onboard the vessel or caused by any potential disembarkation of the stowaway (food, drink, accommodation, interpreters, security, repatriation costs, etc.) will need to be settled by the vessel's agent in the first instance, as the representative of the owner of the vessel in Spain before the Spanish authorities.

### **DISEMBARKATION OF STOWAWAYS AT SPANISH PORTS**

It is possible for stowaways to be disembarked at Spanish ports, and from our experience the Spanish authorities are generally quite receptive and sympathetic to such a solution, provided that certain criteria are met and guidelines followed:

- 1) Any request to disembark the stowaway at a Spanish port should be made by the ship's agent. In some circumstances the owners may decide to appoint a 'protecting agent' in cases where under the Charter Party the vessel is assigned to another agent.
- 2) In order for the stowaway to be disembarked, they will need to possess the necessary identification documents. This could be a passport or alternatively a travel document issued by the stowaway's country of origin, such as a laissez-passer. In the case of the latter, this will preferably be issued in Spain by the embassy of the stowaway's country of origin. Spanish authorities require that the stowaways are accompanied by escorts until they are returned to their home country.
- 3) Logistical issues will also be taken into consideration. For example, if the vessel is on a regular line and will soon be returning to the port of embarkation, it is unlikely that the Spanish authorities will permit the disembarkation of the stowaway in Spain. Indeed, in this situation, it would also be in the vessel's interests and the most cost-effective option for the stowaway to remain onboard the vessel until she returns to the port of embarkation.
- 4) Another option for the disembarkation of the stowaway would be for them to claim political asylum, however, there would obviously need to be reasonable grounds for this application to be considered. In the event that political asylum is claimed by the stowaway, a formal application will need to be submitted which will in turn be considered by the Spanish authorities.

We hope that you find the above to be of practical use and interest. Please do not hesitate to contact us should you have any queries.

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