

LEGAL COMMITTEE
109th session
Agenda item 4(a)

LEG 109/4(a)/2
14 January 2022
Original: ENGLISH
Pre-session public release:

FAIR TREATMENT OF SEAFARERS

- (a) **Provision of financial security in case of abandonment of seafarers, and shipowners' responsibilities in respect of contractual claims for personal injury to, or death of, seafarers, in light of the progress of amendments to the ILO Maritime Labour Convention, 2006**

Analysis of incidents of abandonment for the period 1 January to 31 December 2021

Submitted by the International Transport Workers' Federation (ITF)

SUMMARY

Executive summary: This document focuses on reporting of incidents of abandonment for the period 1 January to 31 December 2021

Strategic direction, if applicable: 6

Output: 6.7

Action to be taken: 16

Related documents: LEG 109/4 and LEG 109/4(a)/1

Introduction

1 At its 104th session, the Legal Committee committed to consider reports on the issue of financial security in the case of abandonment of seafarers, and shipowners' responsibilities in respect of contractual claims for personal injury to or death of seafarers, in light of the progress of the amendments to the ILO Maritime Labour Convention (MLC), 2006.

2 As the organization which reports the majority of cases to the Joint IMO/ILO database on reported incidents of abandonment of seafarers, the International Transport Workers' Federation (ITF) offers this analysis of the cases of abandonment and the use of the financial security system for 2021. Details reported are correct as per those reported to ITF at the date of writing.

3 During the period referred to, a total of 95 cases of abandonment were reported involving 1,399 seafarers on 94 different vessels (crew on the **Gas Amazon** were abandoned twice). The ITF reported 88 of the 95 cases, a significant increase in the percentage of cases

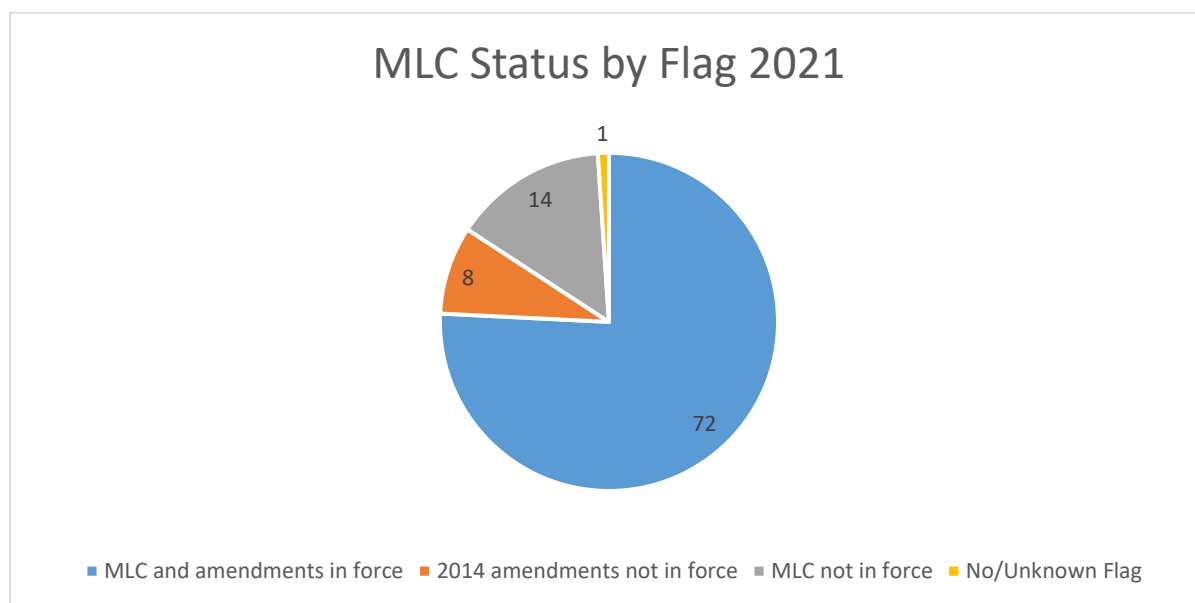
reported by ITF as compared to 2020. Overall, there were 10 more cases involving 99 more seafarers than in 2020. Of these cases reported by ITF, 31 are now considered resolved, 17 are disputed (the seafarers are no longer on board, but wage claims are ongoing, or all wages were not received), and 47 cases were ongoing at the time of writing this report.

4 The number of cases reported has increased by more than 10%. This demonstrates the failure of the industry to adequately prevent and resolve cases within an adequate time frame.

Maritime Labour Convention, 2006

5 Of the cases reported in 2021, 72 (76%) involved vessels flying flags of States that ratified MLC, 2006 and accepted the 2014 amendments. Eight involved flag States that ratified MLC, 2006 but have not accepted the 2014 amendments. Fourteen (15%) were flying the flag of States that have not ratified MLC, 2006, and one had no flag.

6 Of the cases involving flag States which have not ratified the MLC, 2006, three cases are shown as resolved (21%). Of the cases involving flag States which ratified MLC, 2006 but have not accepted the 2014 amendments, one case is resolved (12%). For flag States that ratified MLC, 2006 and accepted the 2014 amendments, twenty-seven cases are shown as resolved (37.5%). This shows a far greater likelihood of cases being resolved completely by flag States in which both the MLC, 2006, and the 2014 amendments are in force.



Cases with valid insurance

7 Of the cases reported, 54 had valid insurance in place. Of those, 31 cases (57%) are currently recorded as either resolved or disputed. Unfortunately, there is not sufficient data to provide accurate and meaningful information on how many of these cases resulted in the financial security provider paying outstanding wages and repatriation costs.

8 As with previous years, the presence of insurance greatly increases the likelihood of the case being resolved in a positive manner. This may be due to insurers paying the wages, or due to pressure being placed on owners by the insurers to resolve the matter.

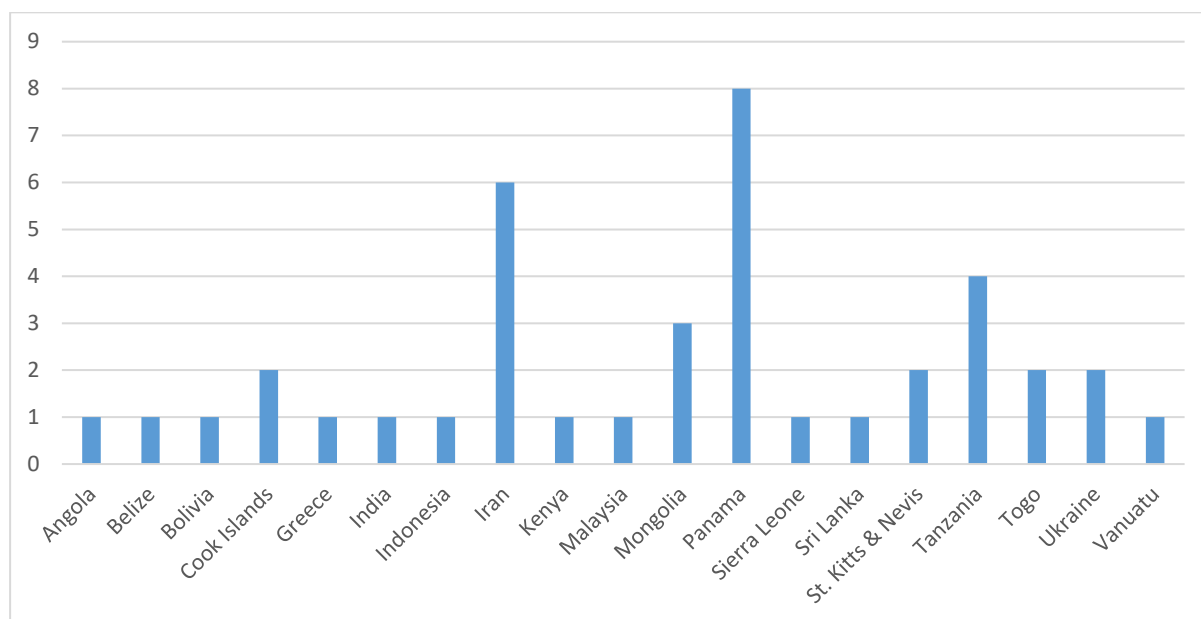
9 The ITF has anecdotal evidence that suggests a number of other cases in which valid insurance was present were also resolved without being reported to the database.

Cases without valid insurance

10 Forty-one cases were reported in which there was no insurance, or the insurer could not be identified. Sixteen of these cases (39%) are recorded as resolved or disputed.

11 This shows clearly the advantage of financial security in the resolution of cases.

Vessels without abandonment insurance by flag



12 Cook Islands, Greece, India, Indonesia, Malaysia, Panama, Sri Lanka, Saint Kitts and Nevis, and Togo have all ratified MLC, 2006 and the 2014 amendments. It is, therefore, concerning that vessels without valid insurance are found registered in those flag States.

Conclusions

13 It has now been five years since the 2014 amendments to the MLC, 2006 came into force. The issue of abandonment continues to plague seafarers. In the past year, improved responses have been seen from some insurers as well as additional assistance from IMO and ILO to resolve cases.

14 This has been another difficult year for seafarers. Crew changes have remained a challenge. Abandonments have been seen on more flags, in more locations and involving more nationalities than ever before.

15 It is clear that too many vessels are operating without valid financial security. This is coupled with increased abandonments on flags and in ports which have not ratified MLC, 2006. This is cause for major concern given the positive effects that have been seen from the introduction of financial security obligations in the 2014 amendments to the MLC, 2006.

16 At least one vessel was abandoned twice over the course of 2021. Several other cases were linked by the same owners or operators. Further, several cases involved owners

or operators who intentionally hindered the process of resolving cases. This may be through non-cooperation with authorities, intimidation of seafarers or other means. Flag States must consider how they deal with such behaviour in order to dissuade it in the future.

Action requested of the Committee

- 17 The Legal Committee is invited to:
- .1 take note of the information provided;
 - .2 encourage discussion relating to a solution to the problem of repatriation of abandoned seafarers;
 - .3 use its influence to encourage Member States to ratify and effectively implement the relevant international instruments and amendments thereto;
 - .4 highlight the existence of the Joint IMO/ILO Database on reported incidents of abandonment of seafarers and encourage Member States to report incidents of abandonment to the database when incidents of abandonment occur in their ports, or on vessels flying their flag; and
 - .5 encourage flag and port States to take more action to ensure the presence of financial security as required by MLC, 2006 Standard A2.5.2 and to take appropriate action when financial security is not in place.
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