

The Prohibition of Vessels Departure for Reasons Concerning the Ensuring of Public and Private Interests in the Hellenic Legal Order

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Abstract

In the Hellenic legal order is forecasted legally the institution of vessels departure prohibition if do not keep concrete conditions that are forecasted by the Hellenic legislation. These conditions are related with the keeping of concrete conditions for safety navigation or with the ensuring of public or private interests and are related mainly with their economic demands. Between these two categories, obviously the most important is the case of not keeping safety navigation conditions as this phenomenon can influence the safety of passengers, crew, load and vessels. However beyond this category of vessels departure prohibition also deserves to be analyzed critically and the case of vessels departure prohibition as is forecasted in the Hellenic legal order, in order to be ensured public and private interests (individual or legal entities). The particular category includes enough cases where can be enforced the right of vessels departure prohibition from those who have legal interest. Besides consequences exist also for State employees who impose the administrative prohibition meter of vessels departure and for that reason are controlled for penal, disciplinary and civil responsibilities.

Key words: Hellenic Coast Guard (HCG), Port Police Authority, Public interests, Private interests, Code of Public Income Collection (COPIC), Code of Civil Procedure (COCP), Code of Public Maritime Law (COPML), Code of Private Maritime Law (COPrML)

Introduction

Meters for the imposition and maintenance of public order, are expressed by legal and material actions. These can be distinguished in:

- a. externally meters, proportional if they concern the public order of individuals or they concern certain specific public order of individuals or state bodies as also if concern other legal persons under public law,
- b. preventive and repressive meters, proportional if aim at the prevention of public order perturbation or concern in the reintroduction of public order that have already disturbed and
- c. topical and untimely meters, proportional if are received and realized or not inside each times of the limits at the duration of which is feasible the prevention or the repression of public order perturbation.

The legal meters that are presented as legal actions are surrounded by the type of administrative action, because the police power is enforced by bodies of administrative operation according to article 26 paragraph 2 of the Constitution. The administrative policing actions are distinguished in three categories, individual, general enforcement and lawful.

Port Police Authorities of Hellenic Coast Guard in their jurisdiction enforce public order policing that aims in its maintenance or even in its repression. Police permissions that are issued by the Port Police Authorities constitute legal actions that are surrounded the type of administrative action, belong in the legal meters and the legal action is expressed by the authorization type of administrative action. It is in the substance lifting of individually certain general prohibition since some actions of entities (individuals or legal) which in principle are allowed, the legislator for reasons of public interest protection dependent them from previous action (permission) by the Competent Authority/ies.

Port Police Authorities during the process of authorization issuing, enforce preventive legality control, by realizing conditions subscription according to the law requirements which are predicted in any specific case or in case in which is called to take into consideration and to appreciate conditions that concern the public order and security. The authorization issuing recommends unilateral expression of public power.

Authorization that is issued by the Port Police Authorities or by the Central Competent Authorities of HCG recommends also the vessels departure. Vessels departure can be prohibited by Port Police Authorities for concrete reasons that are forecasted in the Hellenic legal order.

In the present concise study will be analyzed the cases in which the Competent Authorities of HCG impose the administrative meter of vessel departure prohibition in order to be ensured the individual or the public interests and the legal actions which can be submitted by those that have legal interest. The study will close with the conclusions formulation.

1. - Conceptual determination¹

2. Prohibition cases of vessels departure departure for reasons concerning the ensuring of public and private interests in the Hellenic legal order

Cases in which can be imposed the meter of vessels departure prohibition in order to be ensured individual or public interests are the following:

2.1 Provisions infringement concerning the payment of navigator fees

Navigator fees constitute according to article 20 paragraph 2 of the law 3142/1955 (A’ 43):

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- A. the compensation ought to the navigator for vessel piloting, the navigator vessel compensation as also to the rest of navigator service employees.
- B. Any additional compensation or obligation ought to the employment of navigator or vessel navigator beyond the time that is necessary on the vessel the navigators’ presence.
- C. Any other compensation resulting from the enforcement of the present law provisions and ought to the vessel navigation or revealing from this”.

For the payment of navigator fees according to article 21 paragraph 2 of the above mentioned law “... are accountable interdependentlythe ship owner.... the manager of the joint ownership and on legal persons the director of these, the maritime agency, as any representative of them,.....to pay any other vessel obligation revealed from the arrival, eve, loading or unloading of this”

For the certification and for income responsible are the Port Police Authorities of the region in which is located the navigator station (article 22 paragraph 1 of law 3142/1955). At the same article in paragraph 4 is defined that “in case of navigator rights delay payment, are enforced against the indebted for payment the provisions of the Code of Public Income Collection (COPIEC). The delay of navigator owed fees payment is able to cause the prohibition of vessel departure ordering by the Competent Port Police Authority”.

In the Presidential Decree (PD) 287/1991 (A’ 102) “Navigational fees” as is in force and more specifically in article 12 paragraph 2 is defined that “is prohibited the vessel departure until the payment of navigational owned fees or the deposit in the competent Port Police Authority guaranteeing letter of one of the recognized in Hellas banks with force of 30 days from the date of vessel arrival which will cover the owed sum”.

It is noted the exception that determines the deposit of guaranteeing letter from recognized in Hellas bank that provides in the Port Police Authority the possibility not to impose the administrative meter of vessel departure prohibition (article 12, paragraph 2& 2, PD 287/1991).

Also in paragraph 4 of the same article is determined that it is prohibited the vessel departure which according to the regulation of paragraph 3, owes to the public navigational fees, if does not bring their relative refunding proof. Also is observed that while in the provisions of law 3142/1955 is provided to the Port Police Authority the possibility of discreet occasion concerning the impose of the right of vessel departure prohibition, does not happen the same in the case of PD 287/1991 provisions and specifically in article 12 paragraphs 2 and 4. While in the first case the right that is provided to the Port Police Authority in order to impose the meter of vessel departure prohibition is potential, in the second case is obligatory. The PD which was issued according to the provisions of law 3142/1955 opposes the provisions of this law. Equitably as is mentioned by D. Mylonopoulos², the typical law as law with superior power and according to its grammatical interpretation provides to the competent authority the potential right if judges to impose the vessel departure prohibition.

The lawful action (PD) ought to be moved in the letter and spirit that was determined by the formal law and not to regulate differently from its real situations. Port Police Authorities must enforce the provision of article 22 paragraph 4 of law 3142/1955 and they must not impose their potential right for vessels departure prohibition because with the application of COPIC provisions are ensured the public economic interests.

2.2 Provisions infringement concerning the payment of lighthouse fees

The subjects of lighthouse fees are regulated by the articles 190-194 of COMPL and additionally according to the provisions of PD 519/1976 (A' 186) that has been published after authorization of these articles.

In article 16 paragraph 3 of the PD in question is determined that "It is prohibited the vessel departure before the deposit of the owed fees unless it will be deposited by the obligatory persons to the Port Police Authority guaranteeing letter of one of the recognized in Hellas banks, with monthly force from the date of vessel arrival and which covers the owed sum".

According to article 20 of the above mentioned PD "The lighthouse fees burden the vessel and for their payment are accountable interdependently the ship owner....., on legal person the director or manager of this, the master as any other representative of these..... if has declared that is responsible for the payment of any vessel obligation..... revealed from the arrival, eve, loading or unloading of this".

In this case, the legislator determines expressly the obligation of Port Police Authorities to impose the meter of vessel departure prohibition, in case that has not been overwhelmed the owed lighthouse fees. It is pointed out the exception that determines the deposit of guaranteeing letter from recognized in Hellas bank that provides to the Port Police Authority the possibility not to impose the administrative meter of vessel departure prohibition.

It is noted that also here according to article 20 paragraph 3 of the PD in question is forecasted the enforcement of COPIC provisions against them that are obligated to pay the lighthouse fees. Thus in any case are ensured the public economic interests.

From the moment that is forecasted the enforcement of COPLI provisions will must not imposed the vessels departure prohibition as an administrative meter while the public economic interests are ensured. In consequence the provision in question requires change.

2.3 Infringements provisions concerning fishery legislation

The vessels departure prohibition is forecasted as consequence administrative ratification by the provisions of fishery legislation and concretely by articles 10 until 14 of the Legal Decree (LD) 420/1970 as it has been modified and been in effect.

More specifically the imposition of pecuniary administrative ratification, consequence administrative ratification as the abstraction of individual fishery permission from the captain of the vessel as the abstraction of vessel fishery permission are taking place by the issuing of the relative decision of the Port Police Authority³. The submission of remedial appeal against the decision of fine imposition in the fishery council does not suspend the fine payment but suspends the abstraction of fishery vessel as also the individual authorization. This because the legislator determines clearly that the submission of remedial appeal does not suspend the payment fine.

Exception constitutes the case in which are violated the provisions which determine the types and the specifications of vessels and generally the floating vessels that are allowed to fish. In that case the perpetrators are punished by fine and provisional abstraction of vessel fishery authorization that does not keep the types and the specifications, as these are determined by the relative provisions.

The sentence of vessel authorization provisional abstraction begins with the certification of the fact by the competent Port Police Authorities and expires with the certification by them that the vessel keeps the law standards.

Provided that expires time interval of one year from the date of the certification without the ship owner to have proceeded in the conformity of vessel characteristics according to the provisions of the law is provided six-monthly subversive deadline and afterwards its end the provisional abstraction of authorization is changed in final provided that has not been arranged the interested person.

In the above mentioned case the Port Police Authorities action are determined clearly in the law and do not offer the possibility to be enforced different policy in any case. The vessels departure prohibition as an administrative meter is enforced in order to be ensured the enforcement of legislation provisions concerning the public security.

2.4 Because of obligatory or conservative seizure

In the Code of Private Maritime Law (COPrML)⁴ is not forecasted as administrative meter the vessels departure prohibition. In contradistinction the Code of Civil Procedure (COCP)⁵ in article 1011 paragraph 2⁶ is determined that “Copy of seizure report is also delivered to the Harbor Master⁷ of the port where took place the vessel seizure within two days from the day that took place the seizure. Seizure obstructs the vessel departure and the Harbor Master⁸ as soon as is delivered to him/her⁹ the copy of seizure report, is obligated to obstruct the vessel departure”.

Also in the article 720 of COCP is determined that: «1. Vessel that has been conservatively confiscated is prohibited to sail also plane 2. Harbor Masteris responsible for vessel departure.....»¹⁰. In COCP seizure is enforced so as actuarial meter as also a meter of obligatory implementation. More specifically:

A. - as actuarial meter and according to article 691 paragraph 2¹¹ the vessel departure prohibition can be published as provisional order. If it is many members court this can happen with the registration in the application or in the practical of judge or chairman decision.

For the conservative seizure relative are the articles 707-727 (CCP).

In the particular case court is eligible to order as actuarial meter of movable property, real estate, law of property on them, requirements and all the property elements of debtor, even they are in his/her hands or in the hands of third person. For vessels as specifically is forecasted in article 709 in order to take place a conservative seizure the decision should be reported in them. Vessel in which has been imposed conservative seizure is prohibited to sail and responsible person in charge for the departure is the Harbor Master¹². According to decision with No 171/1987 issued by the one member Court of Piraeus/First instance the actuarial meters have provisional character and in any case aim in the guarantee of lender interests.

B. - As meter of obligatory implementation seizure is forecasted in articles 904 and next. It is only enforced when exists execution title and based on article 922 is also enforced at vessels seizure.

Legislator when is reported in Harbor Masters obligations included the significances “responsible” in article 720 paragraph 2 and “ought” in article 1011.

Issue is revealed concerning the request if the Harbor Master is the responsible person if vessel in which have been enforced the prohibition departure, departs¹³. In Harbor Master competence and in the duties of Port Police belongs the keeping of vessel shipping documents¹⁴ and in consequence the refusal of vessel departure. It is pointed out that according to Public Prosecutor consultations¹⁵, the provision in order to obstruct the departure of seized vessel does not constitute public order provision and is placed for the private interests’ protection.

According to relevant provisions that are contained in the COPML, in case that has been imposed on a ship with crew seizure as also the prohibition of vessel departure and it sails then the master of the vessel has penal¹⁶ and disciplinary¹⁷ responsibilities.

The subject of vessel guard that take place under departure prohibition because of obligatory or conservative seizure has been regulated with the publication of PD 280/2000 (A’ 232) titled “Obligation of guardians hired in vessels that are under departure prohibition because of obligatory or conservative seizure after provisional order issued by courts and other necessary with this subject detail”¹⁸.

More specifically in article 1 titled “Guards nomination” and in paragraphs 1 to 3 is determined that “1. Any accelerating lender immediately afterwards the imposition of vessel departure prohibition meter consequently of seizure (obligatory or conservative) or provisional order of Court hire and establish on the vessel one (1) guard and in case of extended eve or subscription of special conditions relative with the guarding, appreciated from the responsible Port Police Authority until three¹⁹. The guarding is obligatory all day (24 hours).

If the accelerating lender is seaman in action, national of European Union state or national from European Free Trade Association minus Switzerland, and the vessel prohibition has imposed because has not been paid for his/her work is able the seaman to undertake the vessel guarding independently of his/her formal qualifications 2. If for the same vessel have been imposed more the one meters of prohibition from the reported in paragraph 1 of the present article the Port Police Authority examines the possibility to approve the nomination of guardian or guardians joint on behalf of accelerating provided that would have been submitted in the Port Police Authority written request by them.3.The ship owneras the maritime agency of the vessel provides to the guardian all the required stay facilitations on the vessel and the necessary means for the implementation of their duties”.

In the article 2 of the aforementioned PD are determined the guardians duties. Concretely the guardians of vessels that are under the particular legal regime “take any expedient and advisable measure in order to avoid thefts reject, damage or deteriorations, for dissimulation reject or illegal departure of the vessel, as well as the complete and permanent briefing of accelerating lenders and Port Police Authorities for any subject that concerns the value maintenance and the vessel situation”. Finally according to article 4 titled “Remaining Provisions”, “the rise of any person on vessels that are under departure prohibition consequently of seizure (obligatory or conservative) or provisional Court order, the work of supply with water, fuels, supply foods and parts are allowed only by authorization issued by the Port Police Authority and they are held during the presentation of guardian who has been hired according to the provisions of article 1”.

As consequence the responsibility of Harbor Master results only if grants departure to a vessel which is under seizure. The obligation of the Harbor Master to impose vessel departure prohibition according to the decision with No 7514/1987 of the minister of the Ministry of Mercantile Marine [(MMM) now Ministry of Citizen Protection (MoCP) and thereafter MoCP when is mentioned MMM is meant MoCP]²⁰ who accepted the consultation with No 817/16-10-1987 issued by the Legal Service of the MMM begins with the notification of the decision to the Harbor Master with which is ordered the conservative or obligatory seizure²¹.

In any case the Harbor Master is accountable for the vessel departure prohibition only when this is located in the port region²² and not in any other case²³. Also the vessel departure prohibition does not concern the anchorage changing²⁴ while as changing of anchorage is meant the locomotion of each vessel in the port or from it in adjacent bights and on the contrary, or between adjacent impetuses, always in jurisdiction limits of the same Port Police Authority region. As vessel departure is meant the vessel departure from the limits of a Port Police Authority and the arrival in the administrative limits of other Port Police Authority²⁵. Additionally in the provisions of CCP is being mentioned only vessel departure prohibition. The statement in question is assured also by the consultation with No 12439 issued on 14-11-1984 by the Public Prosecutor of Piraeus/First Instance Court, according to which the anchorage changing of seized vessel does not raise in the prohibition of vessel departure that is forecasted in the article 720 paragraph 1 of CCP neither in the implementation of sail of paragraph 3 of the same article²⁶. The CCP provisions because are provisions of obligatory law are also enforced and to vessels that pass transit (passage via Hellenic port of any vessel that emanates from abroad port and sails to abroad port).

Question arises when is going to held vessel auction while according to article 1012 paragraph 1 of CCP this is taking place in the notary of region port where is located the vessel moored during its seized. From the combination of articles provisions 998 paragraph 2 and 992 paragraph 1 conclude that the vessel auction is carried out in the municipality seat where the vessel was moored during its seized. For this reason anchorage changing should be avoided but also when are imposed it should be ordered the vessel return in the place of seizure before the auction realization²⁷.

The departure of seized vessel can be allowed by written consent of the accelerators for one or more voyages or by court decision that had published the decision on conservative seizure and in exceptional cases by decision issued by the one-member court of first instance of place where was executed the decision. The consent should have document character and must bring certain chronology. In case that will be allowed vessel departure by this court it can be realized after application of anyone that has legal interest with terms that court judge and with insurance of the vessel for proportional sum according to article 720 paragraph 3 of CCP. The lifting of vessel departure prohibition befalls automatically with the lifting of the conservative or obligatory seizure²⁸.

2.5 Provisions infringement concerning the shipwrecks and the abandoned vessels in the Hellenic ports

Sanctions for provisions infringement of law 2881/2001 (A' 16) as also for the ministerial decisions (MD) which have been published according to its authorization are forecasted in article 8 and are imposed by justified decision issued by the Head of the Port Police Authority.

Article 8 paragraph 2 of law 2881/2001

“2. The imposition of fine process begins with the syntax of infringement certification by the Port Police Authority that ascertains it. The offender is called to expose his/her opinions in two (2) days from the notification From the syntax of infringement certification and until the fine payment or the exemption of it..... is prohibited the vessel departure. The departure is allowed if will be deposited guaranteeing letter of credit institution equal in amount of the fine as is defined in the paragraph 1 of article 7 and in case that is not possible the direct presentation of the above guaranteeing letter if provided other sufficient certainty.

3. The deadline of appeal and the appeal to the responsible court against the imposition of fine decision does not suspend its implementation”.

.....
From the infringement syntax and until the fine payment or the exemption of this in who was certified the infringement is prohibited the vessel departure. The departure is allowed if deposited guaranteeing letter of credit institution is equal in amount of the fine, as is fixed in paragraph 1 of article 7 and in case that is not possible the direct presentation of the above guaranteeing letter if provided other sufficient certainty.

The deadline of appeal to the responsible court against the decision does not suspend its implementation.

In the above mentioned case the Port Police Authorities action are determined clearly in the law and do not offer the possibility to be enforced different policy in any case. The vessels departure prohibition as an administrative meter is enforced in order to be ensured the enforcement of legislation provisions concerning the public or private interests.

2.6 Provisions infringement concerning the relative legislation for recreational vessels

In the article 12 of law 2743/1999 (A´ 211) is defined that:

.....
2. Independently from the penal sanctions, for each provisions infringement of present law is imposed, by justified decision issued by the Head of Port Police Authority fine from.....

3. a) still to the offenders of the same provisions is imposed by the minister of Mercantile Marine after proposal of the Head of the Port Police Authority fine

.....
4. In case of infringements relapse the limits of fine as these are determined in the previous paragraphs are doubled. In this case the minister of Mercantile Marine can at the same time remove for time interval up to three (03) years the authorization of recreational vessel that was granted according to the provisions of this law.....

5. The process of the above administrative sanctions imposition begins from the syntax of infringement certification by the Port Police Authority that realizes it.

6. Before the fine imposition the perpetrators are called to expose their opinions in two (2) days from the notification

7. From the syntax of the above certification and until the fine payment in any Tax Office or the exemption of it in who was certified the infringement is prohibited the recreational vessel departure with the exception of the professional recreational vessel. The prohibition is raised if will be expositied equal in amount to the fine that was imposed guaranteeing letter of bank that functions legally in Hellas. The departure can also be allowed, without the payment of fine or the deposit of bank guaranteeing letter if is provided other sufficient certainty and from the things is unfeasible the direct presenting of banking guarantee”.

2.7 Provisions infringement concerning the payment fees for ports operation

A. - According to article 6 paragraph 7of law 2399/1996 (A´ 90) for the offenders that do not overwhelm the passengers port fees:

“In case of not income, decreased income or the fee attribution delay from the responsible enterprise with decision issued by the minister of Mercantile Marine after proposal of administration and exploitation public institution of the port or from the competent Port Police Authority can:

[ii] be removed provisionally also for time interval from thirty (30) days up to three (3) months or is recalled finally the expediency realization of itineraries authorization or the implementation of tourist sails in the marine figuratively means of the particular enterprise.

[iii] It is also provisionally removed for time interval from thirty (30) days up to three (3) months or is recalled finally the maritime agency operation authorization. If the agency or the enterprise that publishes the tickets or collects the owed in the harbor fund dues functions as tourist agency according to law 393/1976 (A´ 199) the provisional abstraction or retraction of operation authorization is realized by decision of the responsible on the tourism minister after proposal of minister of Mercantile Marine.

8. The persons in charge for each harbor that publish legally passengers tickets of all vessels type are compelled to deposit in the familiar harbor fund, guaranteeing letter of recognized commercial bank for the guarantee of good management and attribution of harbor dues for passengers tickets. The height of guaranteeing letter, as well as each other detail for this paragraph enforcement is determined by decision issued by the minister of Mercantile Marine²⁹.

9. Independently from the sanctions of paragraph 7 in any case of not income or of attribution delay of collected port fees from the above enterprises, the local Port Police Authorities after application of administration and exploitation public institution port prohibit the vessels departure for which exists the obligation of owned attribution fees”.

B. - According to article 20 paragraph 3 of law 3622/2007 for the offenders that do not overwhelm the port fees for vehicles are in effect the above-mentioned sanctions namely the sanctions of article 6 of law 2399/1996 as was modified and is in effect with the law 2575/1998 and law 2881/2001 minus the paragraphs 8 and 10.

2.8 Provisions infringement concerning overdue shipping articles

In the PD 913/1978 (A´ 220) are contained coded the provisions of law 792/1978. According to these provisions are defined the followings:

Article 86

Paragraph 4: From the shipping article³⁰ owned contributions are rendered due and claimant in the below cases:

A) As soon as is supplemented three months from its publication.

D) If is fired and was not replaced the master

Article 88 [article 3 of legislative decree (LD) 87/69]

Assurance meters of Maritime Retired Fund (NAT) income resources.

1. It is able to be prohibited the vessel departure from interior port, if aiding the circumstance of article 84 paragraph 4 of the present law do not overwhelmed to NAT from the shipping articles owed fees.

Article 89 (article 2 of LD 87/69)

1. When is deposited the due shipping article the Port Police Authority:

C. If ascertains that had not overwhelmed totally or in a percentage of 90% at least at approach the owned contributions for time interval of two and more half-year periods.

A) Requires overwhelming the owned contributions at least a percentage of 90% of them and constantly proceeds to the replacement of the shipping article and to rest actions of case A´.

B) Otherwise acts according to case B´ and immediately alert telegraphically NAT which is able after Management Boards decision to prohibit the vessel departure.

Law 2575 /1998 (A´ 23)

Article 4

Paragraph 6 (i). For not income or the delay attribution of resources by the ship owner of management enterprise, independently from the forecasted penal sanctions and the increases of COPIC that are imposed by the next day of deadline expiry is able to be prohibited by decision issued by the management board of NAT the vessel/s departure/s of the vessels that are managed by the ship owner or the management enterprise. As results from the above provisions the vessel departure prohibition in cases in which the owed contributions from the shipping articles render due and eligible is potential and more specifically depends by the discreet occasion of NAT to request from the internal Port Police Authorities or from the Hellenic Consultant Maritime Authorities after have been informed appropriately by them the vessel departure prohibition.

In these cases Port Police Authorities are obligated to impose the specific administrative meter until to be paid all the debtors obligations to NAT. Following the Port Police Authorities must be informed in order to lift the specific administrative meter.

4. Appeals- Suspension of decisions implementation³¹

Conclusions

The administrative meter of vessels departure prohibition can be imposed as consequence administrative sanction continuity with the imposition of pecuniary administrative sanction or independently. In the first case the person that has legal interest is able to submit and according to the provisions of laws 2690 and 2717 of 1999 as they have been modified and been in effect remedial appeal in the competent Administrative Court. Before the submission of the relative remedial appeal to the Juridical Authorities in the case where is imposed the administrative meter of vessel departure by Central Service or Port Police Authority of HCG without to have been imposed at the same time pecuniary administrative ratification, responsible in order to pronounce on the submitted hierarchy appeal is accordingly to the paragraph 13 of C Unit of the MD with No 1141.1/04/14-07-2011 (B' 1611) the Deputy Chief of HCG.

In the event that from the competent Port Police Authorities have been imposed only the administrative meter of vessel departure prohibition is able again and in this case to be followed the process that is forecasted by the provisions of laws 2690/1999 and 2717/1999 as they have been modified and are been in effect, with the submission of the relatives appeals. The provisions of these laws in question cover also the item of vessels departure prohibition for the specific cases that were reported above while this prohibition recommends administrative action.

As I have supported in a recently study I believe that minus the cases at which exists one or more reasons in order to be imposed the vessel departure prohibition and concretely for provisions infringement that are related with the safety of the vessel, of the cargo, crew and the passengers for which the imposition of administrative meter will force the persons in charge to proceed in the re-establishment of lacks or to the reintroduction in the legality, real situation which should be realized before the lifting of meter by the competent of HCG services, is not needed in the remainder cases to be imposed the specific meter. This statement springs that from the moment where the income of fines can be ensured according to the provisions of COPIC the interests of private individuals, institutions and of the public/state are ensured and do not exist case of loss.

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¹ See Korontzis, Tr. (2011). Chapter "Hellenic Coast Guard competences", pp 171-214, in the PhD titled "The stationary role of HCG", Library of Panteion University of Social and Political Sciences, Athens (in Hellenic).

² See Mylonopoulos, D. (1991). The prohibition of vessels departure, Athens, 1991, pp 84-85 (in Hellenic).

³ See LD 420/1970, law 1740/1987, law 2040/1992 and law 2538/1997.

⁴ See Kambysis, D (1982). Private Maritime Law. Athens- Komotini: Ant. Sakkoulas, pp 188,419,475, 481, 586, 587, 595 (in Hellenic). Concretely with LD 4570/1966 (A' 244) and based on article 58 of the Introductive Law of CCP were expressly suppressed the provisions of articles 210, 212, 213, 215, 216, 217 and 218 of COPrML and remained in force only the articles 211 and 214.

- ⁵ Compulsory Law (CL) 44/1967 (A' 106) as modified later and was coded by the Royal Decree (RD) 657/1971 (A' 219). The relative articles that are reported in the conservative seizure are: 707, 708, 709, 713, 715, 720, 992, 993, 1011, 1012 and 1013.
- ⁶ The provision of articles 1011 and 1013 of CCP exist in the LD 356/1974 (COPIC) where in the articles 48 and 50 are taking place intact transport of articles 1011 paragraph 2 and 720.
- ⁷ Harbor Master is a title and not hierarchy decree. Harbor Master basically is an officer of Hellenic Coast Guard while in inferior Port Police Authorities (Port Police Departments or Port Police Authorities) can be posted as Commanders or Heads Petty Officers of HCG.
- ⁸ The head of Port Police Authority has personal responsibility in case that will allows departure of seized vessel. See analytically Korontzis Tr. (2012). Penal, disciplinary and civil responsibility of the Hellenic Coast Guard personnel, *International Journal of Humanities and Social Science*, Vol. 2, No. 9, p.p.174-185.
- ⁹ Notifications are taking place according to articles 122 -143 of CCP.
- ¹⁰ The provisions in question intact exist also in the LD 356/1974 (A' 90) [COPIC] in the articles 48 and 50. Also according to the article 2 of law 457/1976 (A' 276) with the reserve of previous article provisions, the provisions concerning the obligatory implementation of conservative and obligatory seizure and vessels auction of CCP or of other laws are enforced also proportionally also in navigable means of this article.
- ¹¹ The article in question determines that: "if the court judges that exists need, has the right, as soon as application is deposited and until to be published its decision, to issue self – appointed provisional order, which is registered under the application or in the proceeding with regard to the measures that should be taken immediately up to its decision publication in order to ensure or to maintain right or the situation regulation".
- ¹² See op. cit. note 8.
- ¹³ It is marked that the vessels departure prohibition is also in effect for vessels which are also under the status of sequestration according to the articles 725 and 727 of CCP.
- ¹⁴ The shipping documents are determined in the article 46 of COMPL.
- ¹⁵ Consultation with No 31/1971 issued by the Public Prosecutor of Thessaloniki/First Instance Court and consultation with No 4/1984 issued by the Public Prosecutor of Piraeus/First Instance Court.
- ¹⁶ See article 234 of COMPL.
- ¹⁷ See article 249 1b of COMPL.
- ¹⁸ Perpetrators of PD provisions are subjected to the sanctions of article 157 of COPML, as the first section of paragraph 1 modified later and is in effect according to the one article of PD 193/2001 (A' 156). With its publication were suppressed the provisions of Ports General Regulations that were in force.
- ¹⁹ The specific period time is not determined in the PD. This can be determined or clarified after request submission to a Judicial Authority based on articles 24 and 25 of law 1756/1988 or with a request submission to the Hellenic Council of State or with the publication of a new PD.
- ²⁰ See Korontzis, Tr. (2012). The Hellenic Ministry of Mercantile Marine, as an autonomous administrative governmental institution in the period 1971-2011. A descriptive and critical approach, *International Journal of Business and Social Science* Vol. 3, No. 8, p.p.61-75.
- ²¹ Relatives are the articles 713, 715 and 720 paragraph 1 of CCP.
- ²² For the significance and the geographical limits of port, relatives are the provisions of law 2971/2001 (A' 285) as it has been modified and been in effect.
- ²³ For seizure vessels control and the meters that should be taken for their hindrance departures have been published the documents with No's 3131/8/95 issued on 26-01-1995 and 3131/19/95 issued on 14-03-1995 by the Port Police Division/ Ministry of Mercantile Marine. Argyrakopoulos, A. (2003). *Law ports (Limenomia)*, Athens, pp 648-651 (in Hellenic).
- ²⁴ See article 1 of Piraeus Port Regulation with No 129/1980(B' 1069). In the case of anchorage changing is issued permission.
- ²⁵ It is regulated based on documents and procedures that are determined by the Harbor Master. At the Central Port Police Authority of Piraeus the Harbor Master after authorization provided of article 1 paragraph 4 of the Port General Regulation of Piraeus published the decision with No 24846 issued on 13-11-1987 that regulated and regulates all the items concerning the anchorage changing.
- ²⁶ For seized vessel anchorage changing relative is the consultation with No 5 issued on 15-10-1977 by the Vice Public Prosecutor/First Instance Court to Harbor Master of Piraeus. Also with the consultation with No 12223 issued on 10-12-1977 by the Public Prosecutor of Piraeus/First Instance Court to the Harbor Master of Piraeus is determined that the provisions of CCP are also enforced on vessels which pass transit (vessel passage via Hellenic port that emanates from aboard port and is intended to abroad port) via the Hellenic Territory.
- ²⁷ See Mylonopoulos. D, op.cit.p 98.
- ²⁸ See Mylonopoulos, D (2000). *Public and Private Maritime Law*, Athens: Ath. Stamoulis, pp 171-176 (in Hellenic).
- ²⁹ See MD with No 3427.29/01/96 (B' 488) as was supplemented by the MD with No 3427.29/02/96 (B' 757) and was modified by the decision with No 81226/01/06 (B' 436). The above mentioned MD were issued by the minister of Mercantile Marine.
- ³⁰ According to the decision with No 971/1982 issued by the Piraeus Appeal Court shipping article is considered as public document.
- ³¹ See Korontzis, Tr. (2011), op.cit. pp 171-214.