

THE SHIPPING LAW  
REVIEW

EIGHTH EDITION

**Editors**

Andrew Chamberlain, Holly Colaço and Richard Neylon

THE LAWREVIEWS

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# PREFACE

The aim of the eighth edition of this book is to provide those involved in handling shipping disputes with an overview of the key issues relevant to multiple jurisdictions. We have again invited contributions on the law of leading maritime nations, including both major flag states and the countries in which most shipping companies are located. We also include chapters on the law of the major shipbuilding centres and a range of other jurisdictions.

As with previous editions of *The Shipping Law Review*, we begin with cross-jurisdictional chapters looking at the latest developments in important areas for the shipping industry: competition and regulatory law, sanctions, ocean logistics, piracy, shipbuilding, ports and terminals, offshore shipping, marine insurance, environmental issues, decommissioning and ship finance.

Each jurisdictional chapter gives an overview of the procedures for handling shipping disputes, including arbitration, court litigation and any alternative dispute resolution mechanisms. Jurisdiction, enforcement and limitation periods are all covered. Contributors have summarised the key provisions of local law in relation to shipbuilding contracts, contracts of carriage and cargo claims. We have also asked the authors to address limitation of liability, including which parties can limit, which claims are subject to limitation and the circumstances in which the limits can be broken. Ship arrest procedure, which ships may be arrested, security and counter-security requirements, and the potential for wrongful arrest claims are also included.

The authors review the vessel safety regimes in force in their respective countries, along with port state control and the operation of both registration and classification locally. The applicable environmental legislation in each jurisdiction is explained, as are the local rules in respect of collisions, wreck removal, salvage and recycling. Passenger and seafarer rights are examined, and contributors set out the current position in their jurisdiction. The authors have then looked ahead and commented on what they believe are likely to be the most important developments in their jurisdiction during the coming year. This year, we welcome Costa, Albino & Lasalvia Sociedade de Advogados as the new contributors of the chapter focusing on maritime law within Brazil. There are also two new jurisdictions in this edition – Israel (Harris & Co) and Mexico (Adame Gonzalez De Castilla Besil) – and Portugal makes a return, with Andrade Dias & Associados as the new contributors.

The shipping industry continues to be one of the most significant sectors worldwide, with the United Nations Conference on Trade and Development (UNCTAD) estimating that the operation of merchant ships contributes about US\$380 billion in freight rates within the global economy, amounting to about 5 per cent of global trade overall. Between 80 per cent and 90 per cent of the world's trade is still transported by sea (the percentage is even higher for most developing countries) and, as of 2019, the total value of annual world shipping

trade had reached more than US\$14 trillion. Although the covid-19 pandemic has had a significant effect on the shipping industry and global maritime trade (which plunged by an estimated 4.1 per cent in 2020), swift recovery is anticipated. The pandemic truly brought to the fore the importance of the maritime industry and our dependence on ships to transport supplies. The law of shipping remains as interesting as the sector itself and the contributions to this book continue to reflect that.

Finally, mention should be made of the environmental regulation of the shipping industry, which has been gathering pace this year. At the International Maritime Organization's (IMO) Marine Environment Protection Committee, 72nd session (MEPC 72) in April 2018, it was agreed that international shipping carbon emissions should be cut by 50 per cent (compared with 2008 levels) by 2050. This agreement will now lead to some of the most significant regulatory changes in the industry in recent years, as well as much greater investment in the development of low-carbon and zero-carbon dioxide fuels. The IMO's agreed target is intended to pave the way for phasing out carbon emissions from the sector entirely. The IMO Initial Strategy, and the stricter sulphur limit of 0.5 per cent mass/mass introduced in 2020, has generated significant increased interest in alternative fuels, alternative propulsion and green vessel technologies. Decarbonisation of the shipping industry is, and will remain, the most important and significant environmental challenge facing the industry in the coming years. Unprecedented investment and international cooperation will be required if the industry is to meet the IMO's targets on carbon emissions. The 'Shipping and the Environment' chapter delves further into these developments.

We would like to thank all the contributors for their assistance in producing this edition of *The Shipping Law Review*. We hope this volume will continue to provide a useful source of information for those in the industry handling cross-jurisdictional shipping disputes.

**Andrew Chamberlain, Holly Colaço and Richard Neylon**

HFW

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May 2021

# CYPRUS

*Zacharias L Kapsis and Antonis J Karitzis<sup>1</sup>*

## I COMMERCIAL OVERVIEW OF THE SHIPPING INDUSTRY

The history of the sea, trade and shipping in Cyprus can be traced back thousands of years. When Cyprus gained its independence in 1960, it heralded a new era of prosperity that witnessed an upsurge in the economy and modernisation of the business and commercial sectors. The development of the shipping industry in Cyprus began in 1963 with the introduction of legislation concerning the registration of ships, the terms of employment of sailors and the relevant taxation. In 1963, the Cyprus fleet consisted of two vessels of 96 gross tonnage (GT). By 2020, the Cyprus fleet had reached an impressive 1,735 vessels with a total GT exceeding 24.5 million.

Cyprus takes pride in its re-election to the International Maritime Organization (IMO) Council for 2020–2021, ranking fourth in Category C with 140 votes, higher than ever before, strengthening its role in the European and international decision-making process. Cyprus has been re-elected into Category C every year since 1987. Additionally, in October 2020, Cyprus was elected for the first time to the Presidency of the Executive Committee of the Mediterranean Memorandum of Understanding on Port State Control, of which it is a Member State. Moreover, in December 2019, Cyprus successfully prolonged its Tonnage Tax and Seafarer Scheme for the next 10 years (until 31 December 2029), following extensive negotiation and discussion between the Shipping Deputy Ministry to the President of Cyprus (SDM) and the European Commission. The Scheme provides competitive advantages, including, among other things, a wider list of eligible vessels and ancillary activities and discount rates for environmentally friendly vessels. Cyprus had the very first open registry within the European Union, with a comprehensive, transparent tonnage tax system approved by the European Union.

Cyprus has one of the largest registered merchant fleets in the world, and has a well-established shipping and ship management centre, located close to the Suez Canal, at the eastern edge of Europe, at the core of bustling air and shipping routes connecting Europe, Asia and Africa. Notably, in 1981, the Cypriot fleet was ranked 32nd globally in terms of its size, whereas currently, it is the 11th largest fleet in the world and the third largest in Europe. Cyprus has a large resident shipping industry, with more than 220 shipping-related companies based in the country which have approximately 4,500 employees. Of these, 87 per cent are controlled by EU interests. The Register of Cyprus Ships is also one of only two open registries within the European Union. It allows non-Cypriot citizens to register their

---

<sup>1</sup> Zacharias L Kapsis is a shipping lawyer and Antonis J Karitzis is the managing director at A Karitzis & Associates LLC.

ships under the Cyprus flag, provided that they fulfil the specific conditions of ownership as required by the Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws of 1963, as amended. Cyprus has also concluded 27 merchant shipping bilateral agreements.<sup>2</sup>

The SDM, which is responsible for maritime and shipping matters, replaced the Department of Merchant Shipping, which had been a distinct entity within the Ministry of Transport, Communications and Works of the Republic of Cyprus, since 1977 and was responsible for the control and development of shipping in Cyprus. The date on which the SDM was established (1 March 2018) is marked as a historic day for Cyprus shipping because the SDM is an autonomous deputy ministry, dedicated entirely to Cyprus' maritime industry, with strategically located overseas maritime offices – in Piraeus, Brussels, Rotterdam, Hamburg, London and New York City – offering services to seafarers and Cypriot ships.<sup>3</sup> Since its establishment, the SDM has evolved with regard to its internal restructuring, aiming to make Cyprus' maritime administration even more modern, efficient and industry-focused, and thus, even more business-friendly to Cyprus-related shipping companies.

The SDM is headquartered in Limassol, the shipping and financial capital of Cyprus. Its mission is based on safeguarding and continuing to develop of Cypriot shipping as a safe, socially responsible and sustainable industry; enhancing the national economy; and creating jobs, specialisation and expertise in the sector. Furthermore, the SDM has been implementing a comprehensive 'Blue Growth' strategy that not only includes enhancement and updating the shipping regulatory framework and processes, but also focuses on digitalisation, the promotion of blue careers and shipping education, and a focus on maritime innovation and a contribution to the development of responsible environmental policies and solutions.<sup>4</sup>

The SDM strongly encourages and supports research and innovation initiatives. Examples such as the Cyprus Marine and Maritime Institute and the Cyprus Foundation of the Sea<sup>5</sup> promote technological innovation, bringing together the academic world with the public and private sector to develop innovative systems providing solutions to respond to the green and digital transformation of the sector. At the same time, the steady growth of

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2 Cyprus has concluded 27 bilateral agreements on merchant shipping, through which Cyprus ships receive either national or most favoured nation treatment in the ports of other states. These agreements with labour-supplying countries provide for specific terms of employment that are beneficial to both shipowners and seafarers.

3 The Shipping Deputy Ministry to the President of Cyprus [SDM] attaches great importance to the quality and speed of its services, which are tailored to its clients and available around the clock. During the covid-19 pandemic, it remained fully operational and continued to provide its services without any disruption, providing facilities to shipping companies and owners of Cyprus-flagged vessels.

4 The SDM launched a consultation campaign on 5 April 2021 to gather feedback on key maritime issues, used to create a long-term strategic vision for Cyprus shipping. The open consultation took place throughout April and May 2021 in four phases: (1) environmental sustainability (7 to 22 April); (2) digital transformation (23 April to 6 May); (3) global persisting challenges: (a) social issues (seafarers' living and working conditions, crew changes and seafarers' vaccination) and (b) piracy and armed robbery against ships (7 to 20 May); and (4) issues pertaining to maritime transport activities of high local and regional interest such as coastal navigation, marine pollution, maritime education throughout May 2021. According to the SDM, the new strategic approach for Cyprus shipping is 'sustainable, extrovert and adaptable'.

5 On 25 October 2017, the Council of Ministers of the Republic of Cyprus approved the establishment of the Cyprus Foundation of the Sea, as proposed by the Cyprus Shipping Chamber and the Maritime Institute of Eastern Mediterranean (Mar.In.E.M). The Foundation is supported by the SDM and it will be the forum that, with appropriate research and development, will provide guidance on the type of research, education and training required in the marine and maritime fields to promote 'Blue Growth'.

the three maritime academies operating across the country with around 300 students, the introduction of a maritime direction in secondary education<sup>6</sup> and the extension of the SDM's grants and scholarships aim to ensure the continuous supply of high-calibre human talent into the Cypriot shipping market. The establishment of the SDM clearly reflects the importance of the shipping sector in Cyprus and the significance that the government places on its development, since the yearly contribution by merchant shipping to the Cyprus economy is extremely high, with recent figures indicating that shipping accounts for approximately 7 per cent of gross domestic product (GDP). Pursuant to the Central Bank of Cyprus' (CBS) report published on 3 November 2020, Cyprus' ship management revenues<sup>7</sup> amounted to €484 million during the first half of 2020<sup>8</sup> (4.8 per cent of GDP). According to the CBS' report published on 28 April 2021, Cyprus' ship management revenues dropped further to €430 million during the second half of 2020 (4 per cent of the GDP).<sup>9</sup>

Shipping stands as one of the financially strongest and most significant pillars of the Cypriot economy. More specifically, it has been characterised as a 'blue economy', with the sector contributing around €1.034 billion to GDP per annum. More than 5 per cent of the world's fleet is controlled from Cyprus and more than 20 per cent of the world's third-party ship management activity (more than 200 shipping companies) is managed by companies based in Cyprus, making the island the largest third-party ship management centre within the European Union and one of the top three in the world, providing ship management services to around 3,300 ships under various flags, with a net tonnage of 47 million. In addition, more than 100,000 seafarers are employed on board Cypriot ships and 9,000 personnel are employed on shore (around 3 per cent of Cyprus' workforce).

The recent discovery of hydrocarbons in the island's exclusive economic zone widens the horizons of the shipping industry, creating synergies and new prospects. Offshore exploration and production of oil and gas, and their transportation ashore, require specialised ships and equipment, and specialist supporting services. A new industry is emerging to meet

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6 It is of great importance that the SDM launched the Seayour Horizon campaign in March 2021, aiming to encourage students in upper high school to choose a career in the maritime sector. In addition, several shipping-related courses are now available in local universities that incorporate law, management and accounting, while a handful of dedicated maritime academies offer vocational marine training, some including on-board internships.

7 The main exporting destinations for the services of the ship management industry are Germany, Greece, Singapore and Malta.

8 The ship management revenues during the first half of 2020 recorded a reduction by €39 million as compared with the first half of 2019. More specifically, following the shutdowns and transport and travel restrictions triggered by the covid-19 pandemic, ship management revenues dropped to €484 million during the first half of 2020, representing a 7.5 per cent decline as compared with the first half of 2019, and corresponds to 4.8 per cent of Cyprus's GDP (as turnover). As a percentage, it is very close to the levels observed during the first half of 2019 (4.9 per cent). Globally, the passenger ships sector experienced the most severe consequences from the covid-19 restrictions, whereas the impact on merchant shipping (e.g., containers, dry bulk carriers, tankers, liquefied natural gas [LNG] carriers) was smaller. This negative development has also affected revenues in the various sectors of the Cyprus shipping industry. Even though uncertainty remains in the economic environment, a recovery can be expected once restrictions have been removed.

9 The ship management revenues of the second half of 2020, as compared with the second half of 2019, represent a 26 per cent decline, almost exclusively in the passenger ships sector. Again, the impact on the merchant ships sector (e.g., dry bulk carriers, tankers, containers, LNG carriers) was significantly smaller. The gradual recovery in economic activity since the beginning of 2021, and the global recovery in international seaborne trade, is expected to also benefit the ship management sector in subsequent periods.

the needs of the offshore activities. Many Cypriot-based shipping companies are very keen to be involved in the industry and some have taken this step by broadening their activities. It is also anticipated that additional shipping companies operating in non-EU jurisdictions will relocate their offices and operations to Cyprus to explore the benefits of the emerging eastern Mediterranean offshore market. On this basis, Cyprus can develop into an important energy centre in the Mediterranean region, with new shipping and energy projects, and government policy includes future maritime transport needs for the exploitation of hydrocarbons.

## II GENERAL OVERVIEW OF THE LEGISLATIVE FRAMEWORK

Cyprus is a common law jurisdiction, meaning that its legal framework is based on both legislation and case law. The legal system was based on the English legal system from 1878 until its independence in 1960.<sup>10</sup> The laws enacted for the colony applied the principles of common law and equity in Cyprus, and many of those laws are still in force.

Shipping legislation is essentially based on the UK model. The Register of Cyprus Ships is regulated by the Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws of 1963, as amended, which are similar to the UK's Merchant Shipping Acts 1894–1954. In addition, Cypriot shipping companies are regulated by Chapter 113 of the statute laws of Cyprus, which is modelled on the UK Companies Act 1948.

As far as admiralty law is concerned, the Administration of Justice Act of 1956 (AJA) defines the admiralty jurisdiction of the Supreme Court of Cyprus, and the Cyprus Admiralty Jurisdiction Order 1893 regulates the procedure and rules before the Supreme Court.<sup>11</sup>

Moreover, following the accession of the Republic to the European Union in 2004, all EU maritime laws, including treaty provisions, regulations, directives and decisions (*acquis communautaire*) apply in Cyprus. Several international maritime conventions on safety, security, pollution prevention, maritime labour and health to which Cyprus is a signatory or that have been incorporated into Cyprus law also regulate the shipping industry.

## III FORUM AND JURISDICTION

### i Courts

All shipping disputes are litigated by the Supreme Court of Cyprus in its first instance jurisdiction as admiralty court and then as an appellate court, by a distinct judicial panel, at the second and final instance. However, the Supreme Court has the power to refer<sup>12</sup> an admiralty case for adjudication by a district court<sup>13</sup> (i.e., a first instance court) in the following cases:

- a irrespective of its amount, any claim arising from a marine accident involving a ship and that includes any claim for loss of life or personal injury caused by a ship defect or as a result of an illegal or negligent act or omission of the owners, charterers or other persons possessing or controlling the ship; and

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10 Cyprus was under the dominion of the British Empire from 1878 to 1914, as a British protectorate from 1914 to 1922 and as a Crown colony from 1922 to 1960.

11 Both Cypriot admiralty laws are based on the UK model.

12 By virtue of the Courts of Justice Law of 1960 (Law No. 14/1960), Article 22B.

13 Judgments issued by district courts can be appealed to the Supreme Court.

- b any of the following admiralty claims, provided they do not exceed €100,000:
- in relation to goods or materials supplied to the ship;
  - for loss of life or goods carried on board;
  - pertaining to the building, repairing or supplying of a ship; and
  - for wages or for disbursements made on behalf of a ship.

The jurisdiction of the Supreme Court to hear and determine admiralty claims and the extent of its jurisdiction are governed by the AJA.<sup>14</sup> The Court has, in many instances, stayed its jurisdiction in favour of a more convenient foreign forum with a closer relation to the dispute and the litigants than Cyprus. The same approach has been adopted when the parties have agreed to refer their disputes to arbitration.

As far as the invocation of the admiralty court's jurisdiction is concerned, the AJA makes a distinction between *in personam* and *in rem* actions and, for the latter category, it makes a further distinction between occurrences in which the subject matter concerns a maritime lien or a statutory lien. In particular, Section 3(1) of the AJA stipulates that the jurisdiction of the Court may be invoked by an action *in personam* (i.e., against a person) in all cases, irrespective of the category of claim. However, the jurisdiction of the Court may be unconditionally invoked by *in rem* action against a ship only for claims that give rise to a maritime lien of the ship or for claims relating to the possession, ownership or (between co-owners) the business and earnings of the ship. Any other action *in rem* against the ship or against a sister ship may trigger the jurisdiction of the Court, only on the premise that the person who would otherwise be liable on an *in personam* claim was, both at the time the cause of action arose, the owner or charterer or person in possession or control of the ship, and at the time the action against the ship was brought, the beneficial owner of the ship in terms of all the ship's shares.

The admiralty court, pursuant to Section 1(1)(m) of the AJA (any claim in respect of goods or materials supplied to a ship for her operation or maintenance), has assumed jurisdiction for claims pertaining to bunkering<sup>15</sup> and supplies.

The time within which an admiralty action may be commenced is limited by the Limitation of Actionable Rights Law (Law No. 66(I)/2012 (the Limitation Law)), which constitutes the general law on limitation, and by the Torts Law, Chapter 148 when it comes to claims on negligence. After a few years of suspension, the Limitation Law eventually entered into force on 1 January 2016. It is the general law prescribing time bars for all legal actions to

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14 The Administration of Justice Act of 1956 [AJA] confers to the Supreme Court jurisdiction to hear and determine claims that relate, among other things, to damage done by or sustained by a ship, disputes as to loss of life or personal injury, any claims that are concerned with the construction or repair or equipment of a ship, any disputes that arise in respect of goods or materials supplied to a ship for her operation or maintenance, any claim by a master, shipper or agent in respect of disbursement made on account of a ship and any collision or salvage claims.

15 In Admiralty Case No. 32/2014, *Interbunker Management Ltd and Novoil Ltd v. m/v 'BARIS'*, A Karitzis & Associates LLC successfully represented the plaintiffs in issuing an arrest warrant against the defendant's vessel, which was anchored in the port of Larnaca. The plaintiff's claim related to the supply of bunkers to the defendant's vessel, and the arrest warrant was issued upon filing an *ex parte* application at the Supreme Court of Cyprus.



be instigated in the Cypriot courts, including admiralty actions. Hence, the time bar period depends on the nature of the claim and applies in the same fashion for all actionable rights, irrespective of jurisdiction. Indicatively, the following time limits apply:

- a* three years for actionable rights on negligence; and
- b* six years for actionable rights pertaining to a contract, including loan agreements.

The Supreme Court has recognised the right of the parties in a contract to set commonly acceptable time limits for certain aspects of their contractual relationship by adopting, for instance, those stipulated in shipping-related international conventions. As such, the Supreme Court, in one of its judgments, endorsed the agreement of the parties to adopt the one-year limitation provision of the Protocol to amend the International Convention for the Unification of Certain Rules of Law Relating to Bills of Lading 1968 (the Hague-Visby Rules) to raise a claim against the carrier and the ship in respect of carriage of goods.

Finally, regard must be paid to various international conventions containing limitation of action stipulations, provided these have been ratified by Cyprus. Cyprus has not ratified the Hague-Visby Rules, the UN Convention on the Carriage of Goods by Sea 1978 (the Hamburg Rules) or the Athens Convention on the Carriage of Passengers and their Luggage by Sea 1974 (the Athens Convention), which contain certain limitation of action provisions (even though, as mentioned in more detail below, Cyprus has adopted most of the provisions of the Hague-Visby Rules and incorporated these into domestic law). However, Cyprus has ratified the International Convention on Civil Liability for Oil Pollution Damage 1969, replaced by the 1992 Protocol (the CLC Convention).

### ***Reform of the judicial system***

On 6 May 2019, the Council of Ministers announced the approval of a draft bill<sup>16</sup> providing for the establishment of admiralty and commercial courts in Cyprus. This bill aims to constitute the fundamental basis of reforming the judicial system of Cyprus by providing fast and effective remedies for commercial and admiralty disputes.

### **ii Arbitration and ADR**

No arbitration tribunal exists in Cyprus and, similarly, no specific maritime arbitration procedure is prescribed in the legal framework. The arbitration rules of Cyprus are widely applicable to all sectors of the legal arena, irrespective of the nature of the dispute or the jurisdiction to which they should be referred.

A dispute may be adjudicated by an arbitrator if the parties involved originally agreed in the underlying agreement (or thereafter agree in writing through a separate agreement) to refer the subject matter of their contention for resolution to one or more arbitrators of their choice.

The law of Cyprus categorises arbitral procedures and agreements as either domestic, which are governed by the Arbitration Law, Chapter 4, or international, which are regulated by the International Commercial Arbitration Law (Law No. 101/87), which adopts and

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16 The bill provides that the Commercial Court will adjudicate specific commercial affairs disputes, namely those in which the value of the claim exceeds €2 million, and these cases shall be subject to adjudication via fast-track procedures. The Admiralty Court will adjudicate shipping and maritime matters (also subject to the fast-track procedure) regardless of the value of the claim. The ultimate aim of this set-up is to strengthen the island's shipping industry and simultaneously help to attract more investors.

reflects, in its greater extent, the provisions of the UNCITRAL Model Law on International Commercial Arbitration of 1985, including the definition of ‘international arbitration’. Cyprus has been a contracting state to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 (the New York Convention) since December 1980.

Irrespective of the arbitration time frames set by the parties in their agreement, the provisions of the Limitation Law apply to arbitration claims alike.

Finally, pursuant to the Law Providing for Certain Aspects of Mediation in Civil Matters (Law No. 159(I)/2012), ‘mediation’ means a structured process, however named or referred to, whereby two or more parties to a dispute attempt by themselves, voluntarily, to reach an agreement on the settlement of their dispute with the assistance of a registered mediator. For the purposes of the law, the term ‘dispute’ also includes a shipping dispute. Nonetheless, it is important to note that mediation law and practice in Cyprus is still in its infancy and not in common use for any kind of civil disputes, including maritime and shipping disputes.

### **iii Enforcement of foreign judgments and arbitral awards**

Cyprus’ legal framework does not specially classify or treat judgments or rulings of a maritime nature or context (foreign judgments) for recognition and enforcement purposes. As one would expect, the rules, principles and procedures governing the recognition and enforcement in Cyprus of foreign judgments awarded within the European Union are enunciated in Regulation (EU) No. 1215/2012 (the Brussels I Regulation (recast)), which also applies to maritime and admiralty judgments. The Regulation entered into force on 10 January 2015 and by virtue of its transitional provisions, the superseded Regulation (EC) No. 44/2001 continues to apply within the EU legal system (including Cyprus) to judgments given in legal proceedings instituted to authentic instruments formally drawn up or registered, and to court settlements approved or concluded, before 10 January 2015.

Foreign judgments given in legal proceedings outside the European Union are enforceable in Cyprus by terms of reciprocity where a bilateral or multilateral agreement is in place between Cyprus and the country in which the foreign judgment was handed down. In that regard, Cyprus, through the EU legislative initiatives, is a contracting party to the multilateral Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters 1988, 2007 (the Lugano Convention). The Lugano Convention entered into force on 1 January 2010. Cyprus has also signed and ratified the Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters (in force since 1979) and has entered into bilateral agreements with a number of other countries to govern the mutual recognition and enforcement of court judgments, including the United Kingdom, China, Egypt, Russia, Belarus and Ukraine.

In the absence of any bilateral or multilateral convention governing the matter, the foreign judgment might be enforced in Cyprus by following and applying common law rules.

Finally, Cyprus is a contracting party to the New York Convention, based on which an arbitral award made in the territory of another contracting state to the Convention, including rulings in maritime disputes, might be recognised and enforced in Cyprus.

The Limitation Law and the provisions thereof also apply to maritime claims.

## IV SHIPPING CONTRACTS

### i Shipbuilding

Cyprus does not have a shipbuilding industry and, therefore, there is no specific regime nor local laws regulating shipbuilding contracts. The general contract law principles apply.

### ii Contracts of carriage

Cyprus has adopted, by way of succession, the International Convention for the Unification of Certain Rules of Law relating to Bills of Lading 1924 (the Hague Rules) (extended to Cyprus on 2 June 1931). Also, the UK Bills of Lading Act of 1855 applies in Cyprus by means of Articles 19 and 29 of the Courts of Justice Law of 1960 (Law No. 14/1960), as seen in *The Ship LIPA*.<sup>17</sup> In the absence of an express choice of law in a bill of lading or charter party, Article 5 of the Rome I Convention<sup>18</sup> applies.

Despite the fact that Cyprus has not ratified the Hague-Visby Rules, it has adopted most of the Rules' provisions and incorporated these into domestic law.<sup>19</sup>

Furthermore, Cyprus has ratified the Hague Rules through the Carriage of Goods by Sea Law, Chapter 263. However, the Hamburg Rules and the UN Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea 2009 (the Rotterdam Rules) have not yet been ratified in Cyprus.

### *Cabotage*

Maritime cabotage is reserved to Cypriot and European nationals and it is governed by Council Regulation (EEC) No. 3577/92 in relation to the freedom to provide services to maritime transport within Member States. The Regulation is directly enforceable in Cyprus and provides that transport between the ports of mainland Cyprus is reserved for vessels operated by shipowners that are nationals of and registered in EU or European Economic Area (EEA) Member States and are flying a flag of one of those states.

Cyprus has concluded bilateral agreements on merchant shipping with Bulgaria,<sup>20</sup> Lithuania,<sup>21</sup> Italy<sup>22</sup> and Romania,<sup>23</sup> which provide for a cabotage restriction.

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17 (2001) 1B CLR 1220.

18 Regulation (EC) No. 593/2008.

19 The Carriage of Goods by Sea Law, Chapter 263, basically adopts the Hague-Visby Rules.

20 Agreement between the Government of the Republic of Cyprus and the Government of the Republic of Bulgaria on Co-operation in the Field of Merchant Shipping, signed 19 December 1985 (Gazette No. 2108, Supplement VII, dated 24 January 1986), Article 6.

21 Agreement between the Government of the Republic of Cyprus and the Government of the Republic of Lithuania on Merchant Shipping, signed 15 February 2000 (Gazette No. 3392, Supplement VII, dated 10 March 2000), Article 5.

22 Agreement between the Government of the Republic of Cyprus and the Government of the Italian Republic on Maritime Navigation, signed 18 November 2004 (Gazette No. 3944, Supplement VII, dated 14 January 2005), Article 1. The Agreement was amended by exchange of Diplomatic Notes (Circular 1/2012 of the SDM).

23 Agreement between the Government of the Republic of Cyprus and the Government of Romania on Maritime Transport, signed 23 October 2006 (Gazette No.4077, Supplement VII, dated 10 January 2007), Article 5.

### iii Cargo claims

The Supreme Court of Cyprus, in its admiralty jurisdiction, is vested with the jurisdiction to hear and determine questions or claims, *inter alia*, for loss of or damage to goods carried in a ship or arising out of any agreement relating to the carriage of goods in a ship.<sup>24</sup>

Cyprus has not ratified the Hamburg Rules. The operation of cargo claims in Cyprus is very much based on the old law and practice that applies in England and the common law or equity principles. In particular, the Carriage of Goods by Sea Law, Chapter 263, which essentially adopts the Hague-Visby Rules, applies only in relation to carriage of goods by sea from a port in Cyprus to any other domestic or foreign port. Also, the Bills of Lading Act 1855 and relevant sections in the UK Merchant Shipping Act of 1894 (both of which apply in the legal system of Cyprus pursuant to Section 29(e) of Law No. 14/1960) may intervene in cargo claims to clarify the legal position and possible liability of owners, carriers, shippers and agents. In addition, Cyprus ratified the Convention on Limitation of Liability for Maritime Claims 1976 (the LLMC Convention 1976)<sup>25</sup> in 2006.

According to Rule 29 of the Rules of the Supreme Court in its admiralty jurisdiction (RSC), stated in the Schedule of the Cyprus Admiralty Jurisdiction Order 1893, any number of persons with interests of the same nature arising out of the same matter may be joined in the same action, whether as plaintiffs or defendants, while Rule 31 makes it clear that an underwriter or insurer shall be deemed to be a person interested in the action.

In terms of the procedurally recognised right of the underwriter or insurer to be joined in an admiralty action as an interested party, the principle enunciated in one of the important admiralty judgments given by the Supreme Court in plenary session<sup>26</sup> highlights matters relating to insurers and underwriters when issuing ‘subrogation receipts’. The Court stressed that subrogation does not, by itself, give rise to a right of insurers or underwriters to bring an action to pursue the subrogated claim in their name but the action should be brought in the name of the assured, unless the claim has been clearly assigned to the insurer or underwriter. In any event, the Supreme Court has stressed in a number of judgments that it is desirable that the names of both the insurer and the assured are joined in the action.

Sometimes, contracts for the carriage of goods by sea may pose uncertainty on the *locus standi* of an innocent party, being a shipper, consignee, endorsee of the bill of lading or other, to initiate an action to the admiralty court. In one of its judgments,<sup>27</sup> the Supreme Court shed light on the importance and meaning of the bill of lading. Effectively, it adopted the principles articulated in common law cases and English case law, namely that the bill of lading is issued to the order of the person to whom the goods are destined and serves three purposes: (1) it is evidence that the cargo has been laden on board the ship; (2) it constitutes, or may constitute, evidence for the contract of carriage; and (3) it constitutes *prima facie* title of the goods. Nonetheless, the Supreme Court highlighted that whether the bill of lading contains the entirety of the terms and conditions of the carriage agreement is clearly a matter of the circumstances and the factual background embracing the dispute. The intentions of the parties as to the time and manner of passing the property of the goods, as

24 AJA, Sections 1(1)(g) and 1(1)(h).

25 Cyprus has also ratified Protocol to amend the LLMC Convention 1996 (the 1996 LLMC Protocol).

26 *Gold Seal Shipping Company Ltd v. Standard Fruit Company (Bermuda) Limited and another* [2000] 1C JSC 1552.

27 *Andreas Orthodoxou Limited v. Demetriou Tylliri Limited* [2007] 1B JSC 1247.

reflected in the contract of carriage, is of decisive importance on the right of the consignee or end receiver of the goods to sue anyone who is responsible in terms of damage to or loss of the ordered goods.

When it comes to the possible liability of forwarding agents that undertake to transport goods from one destination to another on behalf of their clients, the Supreme Court reiterated that the contents of the bill of lading are not conclusive evidence but only an indication of the legal position of each party in the transaction for the carriage of goods. If a forwarding agent is engaged by the client to arrange the transportation of the goods to the destination that the client determines without expressly agreeing to do so only as agent of the client and, on the contrary, it essentially assumes the responsibility to ensure the safe transportation of the goods to the destination that the client will specify, the forwarding agent may be found liable against the client for the loss or damage that the goods may suffer during their delivery to the client.<sup>28</sup>

If an owner, charterer, carrier, forwarding agent or other is found liable for breach of the contract of carriage because of its failure to safely deliver goods to the prescribed destination and as a result the goods sustained loss or damage, the receiver or owner of the goods will be awarded compensation for the loss or damage suffered and that naturally arose in the usual course of things from the breach or that the parties knew, when the contract was made, to be the likely result of the breach. Compensation shall not be awarded for any remote and indirect loss or damage sustained by reason of the breach. This emanates from the Contract Law, Chapter 149, which reflects the principles of common law and, likewise, the Torts Law, Chapter 148, which includes similar provisions for the award of compensation for negligent or tortious acts. The admiralty court has, in some instances, awarded compensation for consequential pecuniary loss in the form of loss of profits when the circumstances of the case so justified.

In relation to demise clauses, even though the Supreme Court (at first instance as admiralty court or in its jurisdiction as appellate court) has not specifically interpreted or examined the effect of such a clause in a charter party, if such a question were to be brought before it for adjudication, the Supreme Court would, in all likelihood, follow the case law developed in England since *The Berkshire* case;<sup>29</sup> in other words, the validity of the demise clause will be recognised.

#### **iv Limitation of liability**

Cyprus has ratified the LLMC Convention 1976, whereby a shipowner may limit his or her liability for the claims set out in Article 2 of the Convention (except for those claims provided in Article 3) for the limits determined in Articles 6 and 7.<sup>30</sup> Furthermore, the Merchant Shipping (Shipowners' Insurance for Maritime Claims) Law of 2012 (Law No. 14(I)/2012) transposed Directive 2009/20/EC on insurance against maritime claims

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28 *Magelire International SA and others v. Freetrade (SAL)* [2003] 1C JSP 1370; *Lord Jeans Ltd v. Orbit-Kazoulis Ltd* [2004] 1B JSC 1300.

29 [1974] 1 Lloyd's Rep 185.

30 The LLMC Convention 1976 liability limits were increased as from 8 June 2015 under the tacit acceptance procedure provided by Article 8 of the 1996 LLMC Protocol. See [www.imo.org/en/MediaCentre/PressBriefings/Pages/24-LLMC-limits.aspx](http://www.imo.org/en/MediaCentre/PressBriefings/Pages/24-LLMC-limits.aspx) for the revised limits.

subject to the limitations of the LLMC Convention 1976. Moreover, the EU Passenger Liability Regulation,<sup>31</sup> which is based on the Athens Convention, sets out limits of liability for death or personal injury or for loss or damage to luggage and vehicles.

In addition, Section 502 of the UK Merchant Shipping Act 1894 fully relieves a shipowner of a Cypriot seagoing ship to compensate for any loss or damage to any goods by reason of fire on board, if it happened without his or her actual fault or privity. Also, under Section 503 of the Act, the liability of the owner of any ship for loss of life, personal injury or damage to any goods caused without actual fault or privity is limited to specified extents.

Furthermore, the parties to a contract may agree to expressly limit the liability of any of the parties by incorporating relevant and appropriate terms in the contract.

## V REMEDIES

### i Ship arrest

Cyprus is not a party to the International Convention Relating to the Arrest of Sea-Going Ships 1952 (the 1952 Arrest Convention); however, the AJA does ratify the Convention.<sup>32</sup>

Under Cypriot law, maritime liens enjoy advantages over all other permitted actions *in rem* (statutory liens), at the time of creation of the lien, in priority and in the enforceability of the security. In addition, statutory liens have no priority over mortgages.<sup>33</sup>

Cyprus courts follow the English case *The Bold Buccleugh*,<sup>34</sup> which recognises as maritime liens salvage, bottomry, masters' and seafarers' wages, disbursements and liabilities, and damage done by a vessel. The arrest of a ship is only possible in the case of an action *in rem* (however, the possibility of securing a *Mareva* injunction for freezing of assets, including a vessel, is discussed in 'Procedures of ship arrest', below).

Thus, the filing of an action *in rem* is a prerequisite for such an arrest. The court has wide discretion to order the arrest of the vessel if it is satisfied that the plaintiff is eligible for arrest. Similarly, the arrest of a sister ship is applicable in Cyprus by means of Section 3(4) of the AJA. However, the concept of 'associated ship arrest' is not recognised under Cyprus law.

### *Procedures of ship arrest*

Rule 50 of the RSC allows any party to apply to the court for the issue of a warrant for the arrest of property (i.e., for the arrest of ship or cargo), at the time of, or at any time after, the issuance of the writ of summons (but not without the submission of a writ of summons) in an action *in rem*. The application must be accompanied by an affidavit containing the particulars prescribed in the RSC, including the nature of the claim, that the aid of the court is required, the national character of the ship and that, to the best of the deponent's belief, no owner or part owner of the ship was domiciled in Cyprus at the time the necessities were supplied or the work was carried out. However, the judge has the discretion to issue an arrest warrant even if the affidavit does not contain all the prescribed particulars.

The arrest warrant shall be served by the marshal of the court in the same manner as prescribed by the RSC for the service of a writ of summons in an action *in rem*. For instance,

31 Regulation (EC) No. 392/2009 of the European Parliament and of the Council of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents.

32 By virtue of the Constitution and by Law No. 14/1960, Articles 19 and 29.

33 As seen in *Nordic Bank PLC v. The Ship 'Seagull'* (1989) 1 CLR 420.

34 *The Bold Buccleugh* (1851) 7 Moo PC 267.

if the arrest warrant is to be served on a ship, or on cargo, freight or other property that is on board a ship, the warrant shall be considered as duly served if an office copy of it is attached to a conspicuous part of the ship, including a mast. If the cargo, freight or other property is not on board the ship, an office copy must be attached to some portion of the cargo or property.

The RSC vest the power and discretion on the judge to issue provisional arrest orders, notwithstanding that no notice of the application has been given to the ship or the shipowner, on such terms as to the furnishing of security as shall appear to the judge to have regard to the circumstances of the matter in question (Rule 205). In practice, almost invariably the judge will order the arresting party to provide security in the form of a bank guarantee from a Cyprus bank, the aim of which is to cover the costs of the marshal and to compensate the shipowner for loss he or she may have suffered from the detainment of the ship, acknowledging the concept of wrongful arrest. However, the security of the arresting party shall not be seized in all cases where the provisional arrest order is finally set aside as unjustified. The arresting party's guarantee may be claimed only in the event of wrongful arrest, which was so unwarrantably brought that it rather implies malice or gross negligence.

At the time the arrest warrant is issued, the judge will determine the amount of the security that the shipowner or other opposing party may deposit to the court for the arrested ship to be released, taking into account the level of the claim. The ship may be released by an order of the judge upon a written application and provided that the security originally set by the judge is deposited to the court.

Any person desiring to prevent the arrest or the release of any property under arrest or the payment of any moneys out of court may, by a written application to the registrar of the admiralty court, cause a caveat against any such action or procedure and the court or judge will not proceed to issue the requested order without notice to the caveator, unless the judge deems that special circumstances have been presented that render it desirable or necessary to make an order without notice to the caveator, upon such terms as may seem fit to the judge. The caveat shall not remain in force for more than three months from the date of being entered, unless extended by further applications.<sup>35</sup>

Almost invariably at the time an arrest warrant is issued, the ship is located within the territorial waters of Cyprus,<sup>36</sup> either anchored in the port area or anchorage or berthed in one of the ports controlled by the Cyprus government (i.e., the ship must not be berthed in any of the ports that have been illegally occupied by the Turkish administration since Turkey's invasion of Cyprus in 1974). An arrest warrant against a ship may be issued even if, at the time the warrant is issued, the ship is located outside the territorial waters of Cyprus. However, in this case, it will not be possible to serve the arrest warrant unless the ship heads within the territorial waters. In these circumstances, the arresting party must see that the warrant will be adequately timetabled so that it does not expire before it is served on the ship.

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35 Rules of the Supreme Court [RSC], Rules 65 to 73.

36 The Republic of Cyprus, pursuant to the United Nations Convention on the Law of the Sea 1982 (UNCLOS), as well as the Territorial Sea Law of 1964 (Law No. 45/1964), has a territorial sea, the breadth of which extends to 12 nautical miles from the baselines. The geographical coordinates and the relevant map of the Cypriot baselines were submitted to the Secretary General of the United Nations on 3 May 1993. In the territorial sea, the Republic of Cyprus exercises full sovereignty and applies all related domestic laws, in line with UNCLOS provisions. Furthermore, according to the Regulation of Innocent Passage of Ships through the Territorial Waters Law of 2011 (Law No. 28(I)/2011), as well as UNCLOS, every foreign ship, whether merchant or warship, has the right of innocent passage through the territorial sea of the Republic of Cyprus, without encroaching upon its sovereignty and without a prior licence.

The Supreme Court has recognised the option of a party to the admiralty proceedings to seek the ‘arrest’ of a ship by using the *Mareva* injunction mechanism under Section 32 of Law No. 14/1960. However, the Court stressed that the power of the Court to issue such an injunction must be exercised only on the premise that the ship is within the jurisdiction of the Court or, in other words, within the territorial waters controlled by the Cyprus government.

The issuance of an arrest warrant, based on Section 50 of the RSC or by way of a *Mareva* injunction, as security for court proceedings (not arbitration proceedings) pending in another jurisdiction, is plausible pursuant to the provisions of the Brussels I Regulation (recast) and, in particular, Section 35 of the Regulation, provided that the ship is within the jurisdiction of the court.<sup>37</sup>

In *Nationwide Shipping Inc v. The Ship ‘Athena’*,<sup>38</sup> the Supreme Court, by adopting an extract from the judgment given in the English case *The ‘Vasso’ (formerly ‘Andria’)*,<sup>39</sup> held that the admiralty court has no jurisdiction to issue an arrest warrant in an action *in rem* for the purpose of providing security for an award that may be made in arbitration proceedings. However, it seems that the extract from the English judgment extends to other proceedings as the court in *The ‘Vasso’* case stressed that the purpose of the exercise of the admiralty court’s jurisdiction to arrest a ship is to provide security in respect of the action *in rem* before it and not for any other purpose. In *The Ship ‘Athena’*, the Court did not consider the application of the Brussels I Regulation (recast), which, of course, prevails over any domestic law and, therefore, confers the jurisdiction to the admiralty court to issue provisional measures and orders for matters adjudicated on their merits in other European jurisdictions.

## ii Court orders for sale of a vessel

An arrested ship, cargo or other property may be appraised and sold by order of the court or judge, either before (*pendente lite*) or after the final judgment. In this case, the judge will appoint the marshal of the court or any other person to appraise the property under arrest (in practice, the court appoints the marshal in almost all cases) and to proceed with its sale at auction (the sale procedure adopted in most cases). Nonetheless, the judge may allow the sale of the ship by private sale if he or she deems this fit and provided that all parties in the litigation acquiesce.<sup>40</sup>

The proceeds from the sale of a ship are paid into the court and, upon an application by any judgment creditor, will be distributed to all judgment creditors who claimed a share of the proceeds, in order of priority. In Cyprus, the priorities have been determined by case law and no guidance is found in the RSC or in any other law or procedural rules applying in Cyprus. Detailed analysis of the order of priorities is outside the scope of this chapter. In general terms, however, government fees, including the costs and expenses of the marshal, take priority over any other claims, and maritime liens take priority over statutory liens, although statutory liens have no priority over mortgages.

37 *The Commerzbank Aktiengesellschaft v. The Ship ‘Tour 2’*, Admiralty Action No. 2/2018, 25 May 2018 is relevant.

38 [2012] 1C JSC 2343.

39 [1984] Lloyd’s Law Reports 235.

40 RSC, Rules 74 to 77 .



## VI REGULATION

### i Safety

The marine safety regulation regime in Cyprus is based on the International Convention for the Safety of Life at Sea 1974 (SOLAS)<sup>41</sup> and other international conventions, such as:

- a the International Convention on Load Lines 1966 (the Load Lines Convention);
- b the International Regulations for Preventing Collisions at Sea 1972 (COLREGs);
- c the International Convention on the Tonnage Measurement of Ships 1969 (the Tonnage Convention), as amended;
- d the Special Trade Passenger Ships Agreement 1971 and the Protocol on Space Requirements for Special Trade Passenger Ships 1973;
- e the International Convention for Safe Containers 1972 (the CSC Convention);
- f the International Safety Management Code 1998 (the ISM Code); and
- g the International Ship and Port Facility Security Code 2004 (the ISPS Code), which adopts various international maritime safety standards.

Cyprus has a proven track record when it comes to maritime safety and has implemented a number of effective measures in line with its accession to the European Union. High-risk vessels are identified by extensive surveys undertaken by the authorities and inspections are undertaken on a global scale, with inspectors of Cyprus ships now operating from 23 important international ports. Moreover, a network of local inspectors of Cyprus ships covers important ports worldwide to ensure efficient and effective control of Cyprus ships and to avoid detentions by port state control.

In addition, Cyprus has a comprehensive and pioneering national legislation<sup>42</sup> for the protection of Cypriot ships from piracy and other unlawful acts, including a legal framework allowing and regulating the use of private armed security personnel in high-risk areas.

In December 2019, the SDM issued Circular 21/2019, through which it clarified the policy adopted by the SDM in response to IMO Resolution MSC.402(96) on the requirements for maintenance, thorough examination, operational testing, overhaul and repair of lifeboats and rescue boats, launching appliances and release gear in conjunction with IMO Resolution MSC.404(96), which, among other things, amends Regulations 3 and 20 of Chapter III of SOLAS. The amendments came into force on 1 January 2020. In addition, the SDM has clarified the adoption of the Guidelines on Safety during Abandon Ship Drills Using Lifeboats (MSC.1/Circ.1578).

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41 And the 1978 Protocol thereof, as well as Resolutions MSC 1 (XIV) and MSC 2 (XIV) 1981 (Ratification) and for Matters Connected Therewith Law of 1985 (Law No. 77/85), as amended.

42 According to the Protection of Cyprus Ships Against Acts of Piracy and Other Unlawful Acts Law of 2012 [the Law], all ship owners and managers of ships under the Cyprus flag are authorised to take any measure being necessary (within the scope of the Law) to protect their ships, personnel and cargo legally. More specifically, the Law allows the interested shipping company to hire a private security company to provide extra security (armed or not) for its ship while in high-risk zones. Additionally, the Law states the relevant procedure needed to be followed, by a private security company, to obtain the authorisation of the Cyprus government that is required to guard (armed or unarmed) Cyprus-registered vessels. A copy of the Law must be placed on board every Cyprus-flagged vessel. The master and shipboard personnel of all Cyprus-flagged vessels are required to become aware of the provisions of the Law, as it has a global geographical application and establishes new rights and obligations for them. Two geographical areas are defined as high-risk areas. The coordinates and description of the high-risk areas are found in First Schedule of the Law.

Moreover, in January 2021, the SDM enacted the Merchant Shipping (System of Inspections for the Safe Operation of Ro-Ro Passenger Ships and High-Speed Passenger Craft in Regular Service) Law of 2020 (Law 189(I)/2020),<sup>43</sup> the Merchant Shipping (Safety Rules and Standards for Passenger Ships) Law of 2020 (Law 190(I)/2020),<sup>44</sup> the Merchant Shipping (Registration of Persons Sailing on Board Passenger Ships (Amendment) Law of 2020 (Law 188(I)/2020)<sup>45</sup> and the Reporting Formalities for Ships Arriving in and/or Departing from Ports of the Republic of Cyprus Order of 2020 (PI 605/2020).<sup>46</sup>

Between February 2020 and May 2021, the SDM issued a plethora of circulars,<sup>47</sup> taking urgent provisional measures for the operation of Cypriot ships and minimising risks to seafarers,<sup>48</sup> passengers and others on board Cypriot ships during the covid-19 outbreak.<sup>49</sup> Furthermore, the Minister of Transport, Communications and Works of the Republic of Cyprus, in exercising the powers vested in him by Article 14(1) of the Cyprus Ports Authority

43 The Merchant Shipping (System of Inspections for the Safe Operation of Ro-Ro Passenger Ships and High-Speed Passenger Craft in Regular Service) Law of 2020 (Law 189(I)/2020 aims to transpose into the law of the Republic of Cyprus Directive (EU) 2017/21103, which repeals and replaces Directive 1999/35/EC on the system of inspections for the safe operation of ro-ro passenger ships and high-speed passenger craft in regular service and ensures a high level of safety and compliance through relevant inspections. As a result of the repeal of Directive 1999/35/EC, the Merchant Shipping (Mandatory Surveys for the Safe Operation of Regular Ro-Ro Ferry and High Speed Passenger Craft Services) Laws of 2002–2012 (Law 59(I)/2002 as amended) are repealed. Currently 89 ro-ro passenger ships are registered under Cyprus flag.

44 The Merchant Shipping (Safety Rules and Standards for Passenger Ships) Law of 2020 (Law 190(I)/2020) transposes into the law of the Republic of Cyprus Directive (EU) 2017/21082, which amends Directive 2009/45/EC, repealing the existing Merchant Shipping (Passenger Ship Safety Rules and Standards) Laws of 2002 and 2004 by which Consolidated Directive 2009/45/EC had been transposed into the Cypriot legal order. Therefore, this Law also includes the provisions of Directive 2009/45/EC, which have not been repealed or amended by Directive (EU) 2017/2108.

45 The Merchant Shipping (Registration of Persons Sailing on Board Passenger Ships (Amendment) Law of 2020 (Law 188(I)/2020), which amends the basic Law 57(I)/2002, aims to transpose into the Law of the Republic of Cyprus the amendments made by Directive (EU) 2017/2109 to Directive 98/41/EC. The relevant amendments are a result of the implementation of Directive 98/41/EC, which has shown that information about passengers is not always immediately available to the competent authorities when needed, while the current requirements of Directive 98/41/EC should be aligned with the electronic data submission requirements to increase efficiency.

46 The amendments introduced by Directive (EU) 2017/2109 to Directive 2010/65/EU regarding Part A of the Annex thereof, are introduced to the Cyprus legal order by virtue of the Reporting Formalities for Ships Arriving in and/or Departing from Ports of the Republic of Cyprus Order of 2020 (PI 605/2020), issued under the Reporting Formalities of Ships Arriving in and/or Departing from Ports of the Republic of Cyprus Law of 2012 (Law 148 (I)/2012).

47 Circulars 3/2020, 5/2020, 6/2020, 7/2020, 8/2020, 9/2020, 12/2020, 13/2020, 17/2020, 18/2020, 23/2020, 24/2020, 1/2021, 2/2021, 4/2021, 9/2021, 10/2021, 11/2021, 12/2021, 14/2021, 16/2021 and 19/2021.

48 Cyprus was one of the first countries that recognised seafarers as essential workers and introduced practical measures for crew changes. Since May 2020, around 10,000 seafarers have been repatriated or have been able to return to work through Cyprus.

49 Among other things, the SDM adopted urgent provisional measures relating to the extension of the validity period of certain seafarers' certificates, extended the annual/intermediate period or renewal surveys for all ships' statutory certificates and enabled remote audits, acknowledging that Cyprus-flagged vessels are encountering increasing difficulties in arranging surveys, audits, inspections, etc. Moreover, the SDM introduced special measures as to the deferral of payment deadlines for tonnage tax and annual maintenance fees.

Legislation of 1973 to 2016, issued instructions for the implementation of restrictive measures at ports and port installations, as well as regarding crew-change protocol, to counter the covid-19 pandemic.

### ***Safety achievements of the Cyprus flag***

The International Chamber of Shipping published its annual Flag State Performance Table for the year 2020–2021 on 27 January 2021, which provides an invaluable indicator of the performance of individual flag states worldwide. It analyses how the countries delivered against a number of criteria, such as port state control records, ratification of international maritime conventions and attendance at IMO meetings.

The level of performance of many of the largest flag states, including Cyprus, continues to be very positive. More specifically, Cyprus maintains its reputation as a traditional large flag state with exceptionally high standards. As a party to all international maritime conventions on safety, security, pollution prevention, maritime labour and health and safety, Cyprus gives full and complete effect to their provisions.

In addition, during the last quarter of 2019, the SDM successfully passed European Maritime Safety Agency (EMSA) audits with no observations on safety and security. The Cyprus case will be used by EMSA as an example of successful use of best practices and procedures on safety.

### **ii Port state control**

The SDM is the competent port state control (PSC) authority in Cyprus. It carries out all inspections of foreign ships in Cypriot ports,<sup>50</sup> verifying that crew, ships and equipment comply with the requirements of international conventions on safety, pollution prevention, operation, management and security, qualifications, living conditions and terms of employment.

Each SDM surveyor has wide-ranging powers on PSC. More specifically, the surveyor can, among other things, interrupt, enter, inspect and conduct inspections on any ship, whether lying at anchor or on a voyage, and provide any necessary assistance to the master,

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50 The ships have to be located within the territorial waters of Cyprus, either anchored in the port area or anchorage, or berthed in one of the ports controlled by the government. As a result of the illegal Turkish invasion and military occupation of the northern part of Cyprus in 1974, all ports in the occupied part of the Republic have been declared by the government as prohibited ports of entry and exit, and no visitor should enter or leave the Republic through these ports. More precisely, the relevant restrictions regarding the ports of Famagusta, Karavostasi and Kyrenia have been imposed by an order (PI 265/1974) of the Council of Ministers of the Republic of Cyprus issued on 3 October 1974, declaring the ports in the occupied areas closed for all vessels. Thus, the ships must not be berthed in any of the ports that are illegally occupied and operated by the Turkish administration. In addition, Section 15(2) of the Cyprus Ports Authority Law of 1973 (Law No. 38/1973), as amended, provides for the relevant sanctions as follows: 'The master and/or the owner of a ship which arrives and departs from a port closed for such ship or enters or stays therein in contravention of an Order under subsection (1) shall be guilty of an offence and be liable to imprisonment not exceeding two years or to a fine not exceeding €17,086 or to both such imprisonment and fine, and in the case of a ship registered in the Register of Cyprus Ships, the Court dealing with the case has the power to order her deletion from the Register of Cyprus Ships.' These restrictions were taken to uphold and maintain the sovereignty of the Republic of Cyprus over its ports and harbours and due to the fact that safety of navigation could no longer be guaranteed in the areas illegally occupied by the Turkish Army since 1974.

as he or she deems fit. It is of great importance that a network of local inspectors of Cypriot ships covers important ports worldwide to ensure efficient and effective control of Cypriot ships and to avoid PSC detentions.

The operator and the master of each ship have, individually, the obligation to provide the surveyor with any requested information and a signed declaration as to the accuracy and truth of the information provided. It is a criminal offence to refuse to provide this information, punishable by imprisonment for up to 12 months or a fine of up to €6,000.

Cyprus is a signatory to the Paris Memorandum of Understanding on Port State Control 1982 (the Paris MOU)<sup>51</sup> and the Mediterranean Memorandum of Understanding 1997 (the Mediterranean MOU).<sup>52</sup> Inspections in Cyprus are carried out according to the Merchant Shipping (Port State Control) Laws of 2011 to 2020 (Law No. 95(I)/2011) as amended, which harmonises Directives 2009/16/EC and (EU) 2017/2110<sup>53</sup> on port state control.

The operator, agent or master of a ship calling at a Cyprus port,<sup>54</sup> which, in accordance with Section 17 of Law No. 95(I)/2011, is eligible for an expanded inspection and bound for a port or anchorage of the Republic, has the obligation to ensure that one of them notifies the competent authority or the Cyprus Ports Authority<sup>55</sup> of the ship's arrival and to provide any necessary information regarding this. The notification shall be as per the Fourth Schedule of the relevant Notification<sup>56</sup> and shall be submitted at least three days before the estimated arrival time or before departure from the previous port or anchorage, if the voyage is expected to take fewer than three days.

51 The Maritime Authority of Cyprus adhered to the Paris MOU on 12 May 2006, and it took effect on 1 July 2006. The Paris MOU has been adopted by 27 flag states.

52 Signed in Valletta (Malta) on 11 July 1997. The Mediterranean MOU comprises 10 Member States: Algeria, Cyprus, Egypt, Israel, Jordan, Lebanon, Malta, Morocco, Tunisia and Turkey. According to the Mediterranean MOU's Annual Report of 2017, published in 2018, the Cyprus administration carried out 119 inspections of foreign vessels, 11 of which were detained. In 2017, 82 inspections of Cypriot ships took place, with only two detentions.

53 The Merchant Shipping (Port State Control) (Amendment) Law of 2020 (Law 187(I)/2020), amends the existing Merchant Shipping (Port State Control) Laws from 2011 to 2015 (Law 95(I)/2011 as amended by Law 155(I)/2015), and aims to transpose into the legal order of the Republic of Cyprus the amendments introduced by Directive (EU) 2017/2110 to Directive 2009/16/EC. These amendments seek to avoid unjustified ship detentions or delays in the framework of port state control.

54 The information relating to ship calls are provided through the Safe Sea Net [SSN], which is the European Community maritime information and exchange system. The SSN has been developed according to Directive (EC) No. 2002/59 (later amended by Directive (EC) No. 2009/17), which has been transposed into Cyprus legislation by virtue of the Merchant Shipping (Community Vessel Traffic Monitoring and Information System) Laws of 2004 to 2012, as amended. Also according to Directive 2009/16/EC, the Member States shall provide information to THETIS (the PSC inspection database) on ships' actual times of arrival and departure through the SSN.

55 The Cyprus Ports Authority [CPA] is a public sector entity established in 1973 on the basis of the 1973 Ports Authority Law and is under the supervision of the Ministry of Transport, Communications and Works of the Republic of Cyprus. The CPA is the competent entity to administer, operate and develop the ports, as well as to facilitate international shipping aids and issue licences for pilotage. All ports, harbours and lighthouses of the Republic are under the jurisdiction of the CPA with exception to the new Limassol Port (which is now operated by three concessionaires). Its jurisdiction extends up to 12 nautical miles from the port's facilities. The Cypriot ports are among the first 33 ports worldwide that were certified in accordance with the International Ship and Port Facility Security Code 2004 (the ISPS Code), which relates to the security of port areas and services.

56 The Merchant Shipping (Port State Control) Notification of 2015 (PI 411/2015).

In addition to the above-mentioned laws, the Merchant Shipping (Port State Control – Duration of Night) Order of 2011 (PI 339/2011), the Merchant Shipping (Port State Control – Geographical Areas of Ports and Anchorages) Order of 2017 (PI 155/2017) and related SDM circulars<sup>57</sup> also apply.

### ***Detainment of foreign ships in Cyprus***

The Cyprus administration detained one foreign vessel in 2020 and nine foreign ships in 2019 for safety deficiencies. The deficiencies included, among other things, matters affecting seaworthiness, life-saving equipment, fire appliances, safe navigation and crew conditions, such as excessive working hours and outstanding wages. Generally, a detention lasts until the deficiency is rectified.<sup>58</sup>

### ***Detainment of Cyprus-flagged vessels***

In 2020, only 29 Cyprus-flagged vessels were detained worldwide,<sup>59</sup> compared with 48 in 2019.<sup>60</sup>

### ***Classification of Cyprus flag***

The Cyprus flag is classified in the White List of the Paris MOU and the Tokyo Memorandum of Understanding on Port State Control in the Asia-Pacific Region 1994 (the Tokyo MOU). It is a top-quality sovereign flag that duly adheres to all safety and security standards deriving from both the Paris and Tokyo MOUs.

Pursuant to the 2018 Paris MOU Annual Report titled ‘Consistent Compliance’, between 2016 and 2018 1,964 Cypriot ships were inspected, 47 of which were detained. In particular, in 2018, 707 inspections of Cypriot ships took place, with 20 detentions. In 2019, the number of Cypriot ships detained was again 20. In addition, as of 1 July 2019, the Cyprus flag meets the criteria for low-risk ships, which will definitely lead to fewer inspections of Cypriot ships in the future.

As far as the Tokyo MOU is concerned, according to its 2019 Annual Report on Port State Control in the Asia-Pacific Region, 551 Cypriot ships were inspected, of which only 24 were detained. In addition, pursuant to the 2019 Annual Report of the Memorandum of Understanding on Port State Control for West and Central African Region 1999 (the Abuja MOU), 79 Cypriot ships were inspected, one of which was detained. According to the 2018 Annual Report of the Riyadh Memorandum of Understanding on Port State Control in the Gulf Region (the Riyadh MOU), 51 Cypriot ships were inspected, with zero detentions.

According to the 2019 Annual Report of the Indian Ocean Memorandum of Understanding on Port State Control (the Indian Ocean MOU), 140 Cypriot ships were inspected, seven of which were detained. Pursuant to the 2018 Annual Report of the Memorandum of Understanding on Port State Control in the Caribbean Region (the Caribbean MOU), 16 Cypriot ships were inspected, with only one detention. Finally,

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57 Relevant Circulars: 7/2010, 8/2010, 41/2010, 24/2011, 31/2011, 26/2012 and 13/2016.

58 If a deficiency cannot be fixed immediately, the ship, under specific circumstances, may be eligible to sail to the nearest port facility for repair or to sail with the undertaking of fixing the deficiency within 15 to 30 days.

59 Of a total of 293 deficiencies, 45 concerned fire safety measures (fighting appliances), 33 concerned safe navigation and 31 concerned life-saving appliances.

60 Of a total of 438 deficiencies, 78 concerned fire safety measures (fighting appliances), 53 concerned propulsion and auxiliary machinery, and 49 concerned life-saving appliances.

pursuant to the 2018 Annual Report of the Memorandum of Understanding on Port State Control in the Black Sea Region 2000 (the Black Sea MOU), between 2016 and 2018, 159 Cypriot ships were inspected, with only six detentions.

### ***United States Coast Guard Qualship 21 list***

Based on the outcome of the US government's 2019 Annual Report on Port State Control, Cyprus is no longer part of the Targeted Flag List of the United States Coast Guard (USCG) in relation to the safety performance of flag administrations.

More specifically, the three-year average detention rate of Cyprus in 2017–2019 was 0.96 per cent compared to an average USCG rate of 1.08 per cent. In 2019, the annual detention rate of Cyprus ships was reduced to 0.55 per cent, down from 1.79 per cent in 2018, while the USCG's 2019 rate was 1.12 per cent. This has resulted in Cyprus joining the USCG's Qualship 21 list, which recognises the top performing flag states based on PSC performance over a three-year period. This will not only mean fewer inspections and delays of Cypriot ships at US ports but also adds to the Cyprus flag's status as a high-quality flag.

### **iii Registration and classification**

#### ***Cyprus' registry***

Cyprus has an EU-approved open registry. The ship registry unit of the SDM is responsible for the registration of ships in the Register of Cyprus Ships and in the Special Book of Parallel Registration. In addition, it carries out all other transactions concerning Cyprus ships, such as the transfer of ownership and the deregistration of ships, the registration of mortgages on Cyprus ships and other transactions relating to mortgages. Furthermore, it is responsible for all transactions concerning the Small Vessels Registry.

Under the Advocates Laws, Chapter 2, only lawyers registered as practising advocates in Cyprus are entitled to carry out registry transactions, acting on behalf of the owner and, therefore, the first step to be taken by persons interested in registering a ship under the Cyprus flag is to engage the services of a locally registered advocate.

#### ***Types of registration***

According to the Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws of 1963, as amended, which are the main statutes for all matters concerning the registration of ships and related transactions in the Register of Cyprus Ships, *prima facie* any ship used in navigation and not propelled by oars is eligible to be registered provisionally,<sup>61</sup> permanently or in parallel (parallel-in and parallel-out) in Cyprus, given that she meets the age-related and type-related requirements, and the ownership prerequisites.

The aforementioned Laws allow the provisional registration of a ship for six months, provided she is out of the territorial waters of the Republic at the time of her registration and that she is not already a Cypriot ship. The provisional registration may be extended

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61 Provisional registration allows the owner of a ship to settle any administrative formalities with the vessel's previous flag, to collect and submit all the relevant and applicable documentation to the Registrar of Cyprus Ships for her permanent registration and complete all the necessary surveys of the ship. Furthermore, the physical presence of the ship in Cyprus is not obligatory. All the necessary inspections can take place at any port in the world. In addition, a provisional registration is as valid as a permanent registration and, therefore, the vessel immediately enjoys all the benefits the Cyprus flag has to offer.

for another three months under special circumstances.<sup>62</sup> Conversely, when a ship is in the territorial waters of the Republic, there is no option other than to ‘permanently’ register her directly. It is of great importance to note that if a vessel is under construction, it can be registered (provisionally or permanently) even if it is not yet finished. It is common practice for the SDM to accept the registration of a vessel and to issue a certificate of registration in which the phrase ‘not used for navigation’ is used. Once the vessel is built, a new certificate of registration without this phrase and restriction can be obtained.

### ***Small Vessels Registry***

All ships (other than portable or collapsible crafts for use by bathers), such as recreational craft, personal watercraft, floatable craft, working boats, small high-speed vessels, sailing boats, fishing boats, jet skis and lighters, with a length of less than 13 metres, which only sail in the territorial waters of Cyprus or in the Sovereign Base Areas, should be registered in the Small Vessels Registry of the SDM, which is regulated by the Emergency Powers (Control of Small Vessels) Regulations of 1955 (PI 740/1955).

All vessels registered in the Small Vessels Registry obtain a unique number made up of the prefix -LL and five digits.

### ***Port of registry***

On 27 September 1974, the port of Limassol became the official port of registry of the Republic of Cyprus, by virtue of the Merchant Shipping (Temporary Provisions) Law of 1974 (Law No. 45/1974), as a result of the illegal Turkish invasion and occupation of the northern part of the island. Prior to this, the port of Famagusta, currently under Turkish occupation, was the official port of registry of the Republic.

### ***Government policy on the registration of ships***

The Registrar of Cyprus Ships does not consider applications for registering ships in either the Register of Cyprus Ships or in the Special Book of Parallel Registration if the ship:

- a* at the time of the registration application, is banned (on PSC grounds) from entering ports of any states party to a PSC MOU or is banned by a state from entering its ports;
- b* has been detained on PSC grounds on three or more occasions during the two years prior to the date of application by states of the Paris, Tokyo or Mediterranean MOU or by the USCG;
- c* has been constructed for exclusive use on inland navigation or to be used exclusively on inland navigation (e.g., on internal waters, rivers, inland waterways, canals, natural or artificial lakes, water reservoirs or dams); or
- d* at the time of filing the registration application, does not satisfy the conditions concerning its age.

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62 The possibility of the three-month extension is not applicable if a vessel is within the territorial waters of the Republic. Thus, if a vessel is located in the territorial waters of Cyprus when her provisional registration expires, the only option is permanent registration of the vessel by filing of application with the Registrar of Cyprus Ships and the submission of all documents required. It is crucial that between the date of the expiry of her permanent registration and the date prior the completion of her permanent registration in the Register of Cyprus Ships, the vessel is not allowed to sail with the Cyprus flag, as it is not considered as a registered ship.

### ***Condition of ownership***

According to the Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws of 1963, as amended, a ship is eligible for registration under the Cyprus flag if:

- a* more than 50 per cent of the shares of the ship are owned by Cypriot citizens or by citizens of other EU or EEA Member States who, if not permanent residents of Cyprus, have appointed an authorised representative in Cyprus; or
- b* 100 per cent of the shares are owned by one or more corporations that have been established and operate:
  - in accordance with the laws of Cyprus and have their registered office in the Republic;
  - in accordance with the laws of any EU or EEA Member State and have their registered office, central administration or principal place of business within the EU or EEA and that have either appointed and maintained an authorised representative in Cyprus, or ensured that the management of the ship is entrusted in full to a Cypriot or a Community ship management company with its place of business in Cyprus; or
  - outside Cyprus or outside any other EU or EEA Member State but controlled by Cypriot citizens or citizens of Member States who have either appointed an authorised representative in Cyprus or ensured that the management of the ship is entrusted in full to a Cypriot or a Community ship management company having its place of business in Cyprus.

A corporation is deemed to be controlled by Cypriots or citizens of any other Member State when more than 50 per cent of its shares are owned by Cypriots or citizens of any other Member State or when the majority of the directors of the corporation are Cypriot citizens or citizens of any other Member State.

The registration of any ship may be subject to any condition the SDM may impose and as it may consider appropriate as the government's general policy and, in particular, in terms of the adoption of more up-to-date and improved methods and standards relating to the safety of human life at sea, the welfare of seafarers, the protection of the sea environment, the preservation of marine life or for public interest in general.

### ***Appointment of authorised representative***

According to the relevant provisions of the Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws of 1963, as amended, an authorised representative may be:

- a* a Cypriot citizen or a citizen of any other EU Member State (including Norway, Iceland and Liechtenstein as parties to the EEA) who is resident in the Republic within the meaning of the income tax laws of the Republic;
- b* a partnership that has been established and registered in accordance with the provisions of the General and Limited Partnership and Business Names Law, Chapter 116 having its place of business in the Republic and employing permanent staff in the Republic;
- c* a corporation that has been established and registered in accordance with the provisions of the Companies Law, Chapter 113 having its place of business in the Republic and employing permanent staff in the Republic; or
- d* a branch of any foreign company that has been established and registered in accordance with the provisions of the Companies Law, having its place of business in the Republic.



In practice, the authorised representative's main responsibility is to be the contact link between the Registrar and the shipowner.

Any document that is required to be served to the shipowner is deemed to be duly served if it is delivered to his or her representative. The authorised representative is then obliged to contact and inform the shipowner accordingly. However, authorised representatives shall not be responsible for any action or omission made by the shipowner. Therefore, a shipowner has to select his or her representative carefully.

### *Age-related requirements*

The entry inspection and additional inspections specified in the table below are required to be carried out if the age of the ship is equal to or greater than the number of years indicated under the related conditions corresponding to the type of the ship.

Type of ship	Entry inspection?	Additional inspection required?
Cargo ship	Yes, if $\geq 15$ years	No
Passenger ship engaged in international or short international voyages or engaged in domestic voyages within the territory of a state other than Cyprus	Yes, if $\geq 20$ years	Yes, if $\geq 20$ years, biennially
Fishing vessel under 25 years of age	Yes	Yes, annually
Other	Yes, if $\geq 15$ years*	No
* Pleasure yachts, non-propelled craft and other vessels with a GT of less than 500 may be excluded from this condition.		

All ships (except passenger ships and fishing vessels) of an age exceeding 25 years are required to comply with the following requirements:

- a* entry inspection with satisfactory results that must be completed prior to the registration of the vessel in the Register of Cyprus Ships; and
- b* provision of the ship's records, age and detention history to justify registration.

### *Timescale of entry inspection and additional inspections*

The entry inspection shall be carried out within six months of the date of provisional, parallel-in or direct permanent registration of the ship. If a ship that is required to undergo an entry or additional inspection (or both) is laid up, or is to be laid up, within three months of the date of provisional, parallel-in or direct permanent registration, the entry inspection and, where required, the additional inspection will be postponed for the duration of the lay-up period and should be carried out no later than six months after the lay-up period ends.

If the parallel-out registration of a ship that is required to undergo an entry or additional inspection (or both) is effected within three months of the date of the provisional or direct permanent registration, the entry inspection and, where required, the additional inspection are postponed while the ship is registered in parallel in a foreign registry and should be carried out no later than six months after the date of expiry or termination of the period of parallel-out registration.

### *Inspection expenses*

The entry inspections and, where required, the additional inspections (annual or biennial) are carried out by SDM surveyors at the expense of the registered owner or registered bareboat charterer, as the case may be.

### ***Parallel registration***

The Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws of 1963, as amended, allow the parallel registration of vessels that are used in navigation and not propelled by oars in the Special Book of Parallel Registration. By parallel registration, a foreign vessel can be registered, for a certain period, under the Cyprus flag while at the same time continuing to be registered in the foreign registry, and vice versa.

### ***Parallel-in registration***

Parallel-in registration is used for cases of bareboat chartering where a bareboat charterer of a foreign ship wishes to register the ship in parallel under the Cyprus flag. The deletion of the ship from the registry of the state in which its ownership is registered is not required. However, its right to fly the flag of the state of registry and to have its nationality is suspended and the foreign registry remains operative only with respect to the ownership and encumbrances status of the ship. The period of parallel-in registration is usually two years and is renewable.

Currently, around 60 foreign vessels are registered (in parallel-in) in the Register of Cyprus Ships. Most are registered under the flag of Germany, the Marshal Islands, Belize or the Russian Federation.

### ***Parallel-out registration***

Parallel-out registration is used when a bareboat charterer wishes to register, in parallel, a vessel that is already registered provisionally or permanently under the Cyprus flag, to a foreign registry. The deletion of the ship from the Register of Cyprus Ships where its ownership and mortgages are registered is neither required nor allowed. However, its right to fly the Cyprus flag and to have Cypriot nationality is suspended. The period of parallel-out registration may be up to three years and is renewable.

Currently, around 100 Cypriot vessels are registered (in parallel-out) in foreign registries, such as the Russian Federation, Estonia, Canada, the United Kingdom, Lithuania, Norway, Azerbaijan, Nigeria, Latvia, Italy, Liberia, France, Kazakhstan, the Netherlands and Belize.

### ***Annual maintenance fee***

For all ships registered in the Register of Cyprus Ships, there is an annual maintenance fee of €300, payable by 31 March of each calendar year. There is no maintenance fee for ships registered in the Small Vessels Registry.

### ***Submission of documents***

As a rule, the supporting documentation<sup>63</sup> relating to the registration of ships and to other transactions in the Register of Cyprus Ships or in the Special Book of Parallel Registration should be submitted to the Registrar. However, some of the required documents (except for the documentation for permanent and parallel registration) may be submitted abroad to any one of the Diplomatic and Consular Missions of Cyprus.<sup>64</sup> In such cases, the Registrar issues instructions to the relevant consular officers to accept the documentation and to proceed with the transaction required.

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63 In practice, most of the documents are admissible in the English language.

64 Cyprus has overseas maritime offices in Piraeus, Brussels, Rotterdam, Hamburg, London and New York, offering services to seafarers and Cyprus-flagged ships.

### *Provisional registration*

For the purposes of the provisional registration of a ship, scanned or faxed copies of the corresponding document or certificate may be submitted, accompanied by an undertaking to submit the original within a specified period and, in any event, not later than by the time of the permanent registration of the ship in the Register of Cyprus Ships.

### *Permanent registration*

For direct permanent registration, all required documents must be submitted in their original form, being duly executed.

### *Deletion of ship*

According to Article 54A of the Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws of 1963, as amended, a ship must be deleted from the Register of Cyprus Ships as soon as its ownership is transferred to a person (legal or natural) not qualified to own a Cyprus ship.

In addition, a Cypriot ship may be deleted from the Register upon submission of an application by the owner of the ship, for the same to be registered in a foreign registry. The owner can request the deletion at any time.

A closed transcript of registry is issued by the Registrar and a deletion certificate is issued by a consular officer as soon as the registered mortgages and other encumbrances are discharged and all pending matters are settled. The owner has to return the certificate of registry or submit a declaration by which he or she will undertake the responsibility to return it within a reasonable period.

A ship can be also deleted in the following circumstances:

- a* the Cyprus character of the ship is revoked by order of the Deputy Minister;
- b* the ship is totally, actually or constructively lost;
- c* the ship is broken up;
- d* there has been no news regarding the ship for six months from the date of receipt of the last information, under such circumstances that make it highly probable that the ship has been either lost or broken up or that it has been sold to a non-qualified person; and
- e* the sale of the ship by court order.

### *Registration of mortgages*

A mortgage against a ship can be registered at any time after the completion of the vessel's registration (provisional, permanent or parallel-out) under the Cyprus flag.

By a registered mortgage, the shipowner can secure a loan or other financial benefits, subject to the conditions agreed between the contracting parties, without the need for exchange control permission. The creation of a mortgage under Cypriot law is not allowed on vessels registered parallel-in in the Register of Cyprus Ships. Under the Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws of 1963, as amended, there is full protection for financiers and mortgagees and there is no stamp duty on ship mortgage deeds or other security documents.

A mortgage can be created independently of whether the ship is provisionally or permanently registered. If the ship against which a mortgage was created belongs to a Cypriot company, the mortgage will also have to be registered with the Registrar of Companies within a maximum of 42 days after its creation.

In this way, mortgagees' security is protected in the event of liquidation of the ship-owning company. Transfer of a mortgage may be effected by completing the statutory form of transfer and submitting it to the Registrar of Cyprus Ships or to a consular officer, with the relevant deed of covenants. Both the statutory mortgage and the deed of covenants must be duly certified or notarised.

For discharging a mortgage, a memorandum of discharge must be duly executed by the mortgagee. The same has to be later attested and delivered to the Registrar of Cyprus Ships or a consular officer on the instructions of the Registrar.

### ***Application of unmanned ships***

Under the Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws of 1963, as amended, the word 'ship' includes every description of vessel used in navigation not propelled by oars. This broad definition clearly allows any potential unmanned or autonomous ship to fall under it and, further, to be considered as a ship in the same way as a traditional (conventional) vessel. Ships of this nature have already started appearing in the modern commercial world and there is a strong possibility of this being an alternative option for ship operations in the near future.

### ***Registration issues in the Register of Cyprus Ships***

In February 2020, the Registrar of Cyprus Ships refused to register a vessel that was previously registered in a non-European registry because it was not free of quantities of halon. According to government policy for vessels whose keel was laid before 1 October 1994, a confirmation from the classification society, stating that the ship is free of halon, is required.

In May 2019, a fishing vessel that was above the age limit set by government policy was initially refused registration by the Registrar of Cyprus Ships based on the age limit requirements; however, successful registration of the vessel was achieved by shipping lawyer Mr Zacharias L Kapsis, after proving that it had undergone a major conversion, ensuring the Registrar considered it as a new ship.

Moreover, in December 2018, the biggest-ever newly built coastal passenger vessel was registered in the Register of Cyprus Ships under the name *Ocean Vision*. This vessel has been characterised as a green ship, owing to its environmentally friendly equipment, engines and facilities; and in May 2015, the successful registration of the first commercial megayacht in the Register of Cyprus Ships, under the name *ANKA*, was achieved.

### ***Online services in the Register of Cyprus Ships***

The covid-19 crisis has resulted in the rapid advancement of technology in the shipping sector and especially in Cyprus. To that extent, the SDM made best use of digital technologies. More specifically, it has made significant progress in simplifying formalities and transforming its services to a paperless environment, providing electronic services, which increased the efficiency and attractiveness of the Register and its relevant services.

The SDM has upgraded its services by digitalisation and automatisations, allowing the electronic submission of seafarers' applications, the electronic verification of certificates issued by Register and the management of the electronic tonnage tax system (TTS, an online tax calculator) through which beneficiaries (owners, charterers or ship managers of qualifying ships) can submit their applications. In addition, the Cyprus flag provides web services (eSAS) for Cypriot endorsements and seafarers' books, the recognition of seafarers' certificates of competency, the administration of the seafarers' e-learning platform and the Seafarers Career

Information System (a career database to facilitate the employment of seafarers, including an interactive platform that allows seafarers to share career information with companies using the system). Last but not least, the electronic ship registration process (online applications) in the Register, the digitalisation of the archives of the SDM and the port state control platform are under development and are expected to launch in the coming months.

### ***Use of electronic certificates***

Since 2018, the SDM has accepted, in electronic form, statutory certificates issued to Cyprus-flagged vessels by recognised organisations, provided that they satisfy the requirements set out in IMO Circular FAL.5/Circ.39/Rev.2 on Guidelines for the Use of Electronic Certificates. However, the existing practice of issuing certificates in hard copy remains acceptable.

### ***Electronic log books (deck logbooks) on Cyprus-flagged vessels***

In December 2020, the SDM decided to accept the use of electronic deck logbooks as equivalent to the official deck logbooks that are published exclusively by the Cyprus flag, provided they meet the requirements of IMO Resolution A.916(22) on Guidelines for the Recording of Events related to Navigation.

### ***Use of electronic record books under MARPOL***

The Maritime Environment Protection Committee, in its 74th session in May 2019, adopted Resolutions MEPC.314 (74), MEPC.316 (74) and MEPC.317 (74), by which amendments to MARPOL Annexes I, II, V and VI and the Technical Code on Control of Emission of Nitrogen Oxides from Marine Diesel Engines (NO<sub>x</sub> Technical Code 2008) are entering into force, allowing the use of electronic record books (ERBs) (for oil, cargo, garbage and ozone-depleting substances, fuel oil changeover and engine parameters) for the purposes of recording operations under the aforementioned Annexes. These amendments entered into force as of 1 October 2020.

On the basis of the foregoing, the Cyprus flag accepts the use of ERBs as an alternative means to a hard copy record book, at the discretion of the shipowner or manager. Ships using an ERB do not need to keep a hard copy of the same record. However, it is advisable to have on board the ship a hard copy of the relevant record book, for use in case of failure of the ERB, lack of power to the electronic equipment, or until crew are fully familiar with the use of the equipment.

### ***New shipping legislation***

During 2019, 15 pieces of legislation were prepared by the SDM. More specifically, five instruments were enacted and 10 draft bills have been submitted to the office of the Attorney General for legal review. Those that have been enacted include instruments relating to:

- a* designation of the safety zones in the exclusive economic zone of Cyprus, under these safety zone regulations; and
- b* simplification of the ship registration fees and dues to reflect the current shipping needs that may be considered obsolete, resulting in lower registration fees.

Of the 10 draft bills prepared and submitted in 2019, the SDM proceeded with the drafting of new legislation for the purposes of harmonisation with several EU directives. An integral part of this policy is the formulation of the national maritime spatial plan,<sup>65</sup> as required by the European Commission.

The directives deal with:

- a the registration of persons on board passenger ships operating to or from ports of EU Member States;
- b the systems of inspections for the safe operation of roll-on/roll-off (ro-ro) passenger ships;
- c high-speed passenger craft in regular service; and
- d updated safety rules and standards for passenger ships.

The harmonising legislation referring to these directives is expected to be adopted in 2021.

### **Recent updates**

#### *Technical standards for certain categories of vessels*

On 13 April 2021, the SDM established technical standards for certain categories of vessels with respect to their registration in the Register of Cyprus Ships.<sup>66</sup> The purpose of the standards is to specify technical requirements for areas not currently covered by national, EU or international legislation, and to inform parties interested in the registration of vessels to whom the standards apply in the Register of Cyprus Ships, of the available options offered by the SDM.

In particular, and in accordance with the categorisation established within the standards, these are applicable to the following categories of vessels:

- a Category A – cargo ships of more than 24 metres in load line length and below 500 GT.
- b Category B – motor or sailing vessels used for pleasure, or engaged in trade, of more than 24 metres in load line length and below 500 GT carrying up to 12 passengers. Training vessels are also included in this category.
- c Category C – motor or sailing vessels of more than 24 metres in load line length and below 500 GT carrying up to 12 passengers, which at the time are considered to be pleasure vessels not engaged in trade.
- d Category D – vessels used for pleasure or engaged in trade carrying between 13 and 36 passengers.

The standards also apply to yachts and megayachts.

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65 The Maritime Spatial Planning and Other Related Matters (Amendment) Law of 2021 (Law 34(I)/2021), The Maritime Spatial Planning (General Provisions) Regulations of 2021 (PI 132/2021) and The Maritime Spatial Planning (Public Consultation) Regulations of 2021 (PI 133/2021) entered into force in March 2021.

66 The technical standards have been determined by the SDM as part of government policy pursuant to the provisions of Section 14B of the Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws of 1963-2020 (Law 45/1963 as amended). The technical standards were introduced through Circular 17/2021, which is supplementary to the relevant circular currently in force (No. 10/2019) and any future circular amending or replacing it. They apply from 15 April 2021. The standards apply to vessels for which an application for registration in the Register of Cyprus Ships is made on or after 15 April 2021.

*Amendments to the basic law concerning the registration of ships, sales and mortgages*

In December 2020, the Cyprus flag enacted the Merchant Shipping (Registration of Ships, Sales and Mortgages) (Amendment) Law of 2020, which expressly provides for the deletion of a Cypriot ship from the Register of Cyprus Ships following the sale of the ship by court order, as well as a new mortgage procedure.

*Prolongation of the Cyprus tonnage tax system*

Following the formal assessment of the Cyprus tonnage tax and seafarer scheme, the European Commission concluded, on 16 December 2019, that the assessed scheme of Cyprus is compatible with the internal market and in line with the EU Guidelines on state aid to maritime transport, prolonging the Cyprus tonnage tax and seafarer scheme for next 10 years (until 31 December 2029). The scheme provides competitive advantages, including a wider list of eligible vessels and ancillary activities, discount rates for environmentally friendly vessels and, more importantly, the companies operating under the current TTS can continue to do so with no major changes.

The scheme was unanimously approved, on 15 April 2020, by the plenary of the House of Representatives of the Republic of Cyprus, securing the viability of the Register of Cyprus Ships and the shipping industry. Cyprus was the first open registry within the European Union to have a comprehensive and transparent TTS approved by the European Union.

Cyprus' TTS applies to ship ownership, management and chartering activities. It is a system whereby beneficiary companies can choose to be taxed on the basis of their vessel's net tonnage (tonnage tax) rather than on their actual profits from maritime transport activities. The tonnage tax is considered as one of the key assets of the Cypriot shipping industry in its efforts to attract more ships and companies to the Cyprus maritime cluster.

The Cypriot scheme has been found to contribute to the global competitiveness of the EU maritime sector without unduly distorting competition, and encourages ship registration in Europe while preserving Europe's high social, environmental and safety standards, and ensuring a level playing field.

Moreover, the European Commission found that it complies with the rules limiting tonnage taxation to eligible activities and vessels. Furthermore, as regards taxation of dividends of shareholders, the Commission found that the Cypriot TTS ensures that shareholders in shipping companies are treated in the same way as shareholders in any other sector. As regards the seafarer scheme, the Commission found that Cyprus has agreed to apply the benefits of its scheme to all vessels flying the flag of any EU or EEA Member State.

The attractive and transparent Cyprus TTS, among other things, provides exemptions to beneficiaries (owners of Cypriot ships, owners of foreign ships, charterers and ship managers) from income tax. Under the Cypriot corporate income tax law, every shipping company that is a tax resident in Cyprus and does not benefit from the TTS is subject to income tax in respect of its worldwide profits from its activities at the normal corporate tax rate (12.5 per cent). As mentioned above, under the TTS, a special tax regime based on the amount of tonnage operated by eligible shipowners, charterers and ship managers, applicable to eligible maritime transport activities, exempts the companies concerned from the general obligation to pay corporate income tax irrespective of the companies' profits or loss.

The tonnage tax for companies owning foreign vessels is payable by 28 February, and the tonnage tax for Cypriot vessels is payable by 31 March.

Before the establishment of the SDM in March 2018, 168 shipping-related companies were registered under the TTS. Currently, 249 companies (45 ship managers, 41 charterers and 163 owners of foreign ships, with approximately 4,500 employees) are currently registered. Of these, 90 per cent are controlled by EU interests.

There were more than 1,100 Cypriot qualifying vessels registered under the TTS as at January 2021.

*Importance of the tonnage tax scheme and seafarer scheme*

With the implementation of the new scheme, Cyprus intends to:

- a boost the competitiveness of shipowners and operators (charterers and ship managers);
- b maintain and increase jobs and maritime expertise, to support the development of the maritime economy;
- c encourage the employment of seafarers from EU and EEA Member States and the registration of vessels in their ship registers; and
- d contribute to linking up the maritime economies of Member States while maintaining the overall competitiveness of the sector, and encouraging maritime-related research and innovation.

In particular, the Cyprus TTS and seafarer scheme encourage the flagging or reflagging of ships to registers in EU and EEA Member States and promotes the maritime cluster, especially in terms of ship management services, thus helping to create a safe, efficient, secure and environmentally friendly maritime transport sector.

The maintenance and sustainability of a Cypriot-registered fleet is a national priority, as is retaining and attracting companies engaging in shipping and shipping-related activities, with the aim of enhancing job creation and maritime expertise.

As regards the effect of the TTS, there has been a significant increase in the number of beneficiaries since 2010, mainly through the relocation or establishment of additional companies in Cyprus as a result of the TTS and the increase in the rate of corporate tax in 2013. Based on data relating to the impact of the existing scheme, the SDM estimates forgone state revenue for 2020–2029 at approximately €15 million per year.

As regards the financial impact of the seafarer scheme, the SDM estimates forgone state revenue for 2020–2029 at approximately €400,000 per year.

*New government policy on yachts*

In the second quarter of 2021, the SDM is expected to adopt a special regulation policy for yachts, introducing an attractive provision for the yachting industry. In addition, on 23 December 2019, the Cyprus Tax Department released Interpretative Circular 240 (Value Added Tax), referring to the registration, in the VAT Registry, of Cypriot companies that operate in the business sector of leasing pleasure yachts in Cyprus. The Circular introduces new procedures that have been approved by the European Commission.

More specifically, pursuant to the Circular, a lease agreement must relate to supply of services and not to supply of goods. The classification of such a lease agreement as supply of services will be held based on the criteria the Court of Justice of the European Union set out in *Mercedes-Benz Financial Services UK Ltd.*<sup>67</sup>

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67 Case No. C-164/16.



*Abolishment of commercial ships' initial registration and mortgage fees*

he Merchant Shipping (Fees and Dues with respect to Ocean Going Commercial Cyprus Ships) Regulations of 2019 (PI 322/2019), which were issued by the Council of Ministers of the Republic of Cyprus, entered into force on 27 September 2019. Initial registration fees for ocean-going commercial ships were abolished in a bid to boost the competitiveness of the Register of Cyprus Ships and to attract more registrations. In addition, there is no cost for the issuance of the initial certificates of ocean-going commercial ships, nor mortgage fees. New regulations with respect to the applicable fees and dues for non-ocean-going commercial Cyprus-flagged ships are to be adopted within the coming months.

*New registration policy*

In May 2019, the SDM introduced a new government policy<sup>68</sup> on the registration of vessels in the Register of Cyprus Ships, in an effort to clarify discrepancies in the previous policy and to further develop the competitiveness of the Cyprus flag, simplifying the procedures for ship registration.

***Re-establishment of the maritime passenger link between Cyprus and Greece***

On 3 July 2020, the European Commission's Directorate General for Competition approved a state subsidy for the operation of the sea passenger line between Cyprus and Greece. More precisely, it was decided that the maritime passenger route between Cyprus and Greece is considered a general economic interest service under current EU rules and can thus be supported with state or government funds.

On the basis of the foregoing, in December 2020, the SDM launched European Open Tender Procedure No. SDM 13/2020 for the Establishment of a Passenger Maritime Link between Cyprus and Greece, securing the EU's approval for a maximum amount of state aid of €5 million annually for the 36-month contract, with the aim of reinstating the Cyprus–Greece ferry connection that was discontinued in 2000 after a sharp drop in the price of airline tickets, which made the line obsolete.

The ultimate aim of this project was to strengthen Cyprus's connectivity with mainland Europe, creating a new market for travellers to and from Cyprus and Europe, since the only means of travel currently available is by air.

The tender closed on 29 January 2021 and, despite the initial interest shown by potential bidders to secure the documents of the Open European Tender for the Cyprus–Greece Maritime Connection, no bids were submitted.

The SDM claimed that the reason for ferry operators not submitting tenders could be attributed to the uncertainty and economically precarious conditions created by the covid-19 pandemic, which has taken its toll on the shipping and travel sectors.

However, the Cyprus–Greece ferry link is still a top priority of the SDM and the government hopes that the European Commission will allow better terms that will attract an investor. Thus, during the coming months, the SDM is going to announce a new tender so that the ferry connection could start in 2022. The route will connect Limassol or Larnaca port with the port of Piraeus, with the possibility of an intermediate stop at a Greek island port on the way to Piraeus and vice versa.

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68 On 23 May 2019, the SDM issued Circular No. 10/2019, through which it revised and simplified the policy (age and type-related requirements) on the registration of ships in the Register of Cyprus Ships.

### *Effects of Brexit on Cypriot shipping*

The risks to Cypriot shipping from Brexit seem to be minimal. British companies are in the process of registering ships in the Register of Cyprus Ships and other companies have moved their headquarters to the island. On a broader level, Brexit will affect shipping companies' income and trade, but Cypriot shipping has not been affected negatively as yet.

#### *Cypriot registry*

From 1 January 2021, British vessels are no longer considered part of the EU fleet. In addition, British shipping companies are no longer considered European and, therefore, cannot fit into the TTS unless they make the necessary changes to be considered European. The SDM, to prevent the deletion of vessels from its registry, contacted and informed the affected parties to make their own preparations for the United Kingdom's withdrawal from the European Union, providing them with options. British nationals and companies that owned Cypriot-registered vessels and wished to continue to have their vessels registered under the Cyprus flag had the following options:

- a* to transfer ownership of their vessels to a person who, by virtue of Section 5 of the Merchant Shipping Law, is qualified to own a Cypriot ship;
- b* to transfer the shares or change the directors of the registered owning company so that, by virtue of Section 5(4) of the Merchant Shipping Law, the registered owners will be deemed to be controlled by EU or EEA citizens; or
- c* to transfer the registered office of the current registered owning company (redomicilisation) to the Republic of Cyprus (by virtue of Sections 354A to 354H of the Companies Law, Chapter 113) or to any other EU or EEA Member State.

The vast majority of British shipowners transferred the ownership of their vessels to newly incorporated Cypriot legal entities. More specifically, the British owners proceeded with the establishment of Cypriot entities in the island so that they could remain eligible to own Cypriot-registered vessels. No vessel has been deleted from the Register of Cyprus Ships as a result of Brexit.

#### *Seafarers*

Since the Merchant Shipping Law does not impose any restrictions on the nationality of seafarers working on board Cypriot ships, the British seafarers working on Cyprus-flagged vessels (around 2,000 people) will continue to do so with no effect and the Cyprus flag will continue to certify and recognise these seafarers.

#### *Arrival of British shipping organisations*

Brexit has resulted in an increased interest from UK-based maritime organisations that see Cyprus as an attractive jurisdiction for an outpost or base because of fears of loss of access to the bloc's financial market.

The Steamship Mutual Underwriting Association (Europe) Limited, one of the largest shipping insurance companies in the international market, has operated in Limassol since February 2020 as a fall-back decision for the UK marine insurer because of the uncertainty surrounding Brexit. The company's decision to choose Cyprus for its activities shows that companies of this calibre confer prestige and consolidates Cyprus as a high-quality complex of international maritime activities.

Another recent example is the British shipping firm P&O Ferries, which moved the registration of the six vessels in its English Channel operating fleet to Cyprus ahead of the UK's departure from the European, in part to keep its tax arrangements within the bloc. On the question of why the company chose the Cyprus flag, a P&O spokesman declared that 'the Cyprus flag is on the White List of both the Paris and Tokyo Memoranda of Understanding on port state control, resulting in fewer inspections and delays, and will result in significantly more favourable tonnage tax arrangements as the ships will be flagged in an EU Member State.'

Apart from the financial perspectives, Cyprus provides competitive advantages in terms of attracting UK-based shipping and shipping-related companies that seek to retain their access to the European market. Among other things, Cyprus has a high availability of highly educated, multilingual, motivated individuals specialised in a variety of areas, including shipping, finance, insurance and law. Cyprus is a common law jurisdiction, based on English law, with national legislation according to the *acquis communautaire*. The majority of the population have tertiary education and speak excellent English.

### ***Classification societies***

As at July 2019, Cyprus had approved all 12 members of the International Association of Classification Societies with no reservation on their approval. A model agreement has been drafted, governing the relations between the Cypriot government and the recognised organisations (classification societies) for statutory certification services. More specifically, the new agreement that was signed between the Republic of Cyprus and the recognised organisations provides survey and certification services to ocean-going Cyprus-flagged ships on behalf of the Republic.

The conclusion of the new agreement with the 12 specialised and internationally acclaimed organisations was required as a result of legislative developments in shipping and to incorporate more flexible and technologically advanced procedures with the use of electronic services and certificates. In the new agreement, the Croatian and Indian Registers of Shipping are included for the first time in the history of Cypriot shipping.<sup>69</sup>

The performance of the classification societies is checked through biannual audits for the SDM or by auditing their performance. Any defect in their performance is discussed at the audits. Their performance is also monitored through ships' performance in PSC inspections. They are consultant organisations acting on behalf of flags, so are, in a way, liable for the performance of the flag they are acting for.

The Merchant Shipping (Recognition and Authorisation of Organisations) Law of 2011 (Law No. 128(I)/2011), which harmonises Directive 2009/15/EC, establishes measures to be followed by the Cyprus administration in its relationship with organisations entrusted with the inspection, survey and certification of ships for compliance with the international conventions on safety at sea and prevention of marine pollution, while furthering the objective of freedom to provide services. According to Article 8 of Law No. 128(I)/2011, the SDM, as the competent authority, shall monitor the work of recognised organisations

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69 Currently 401 Cyprus-flagged vessels are classed under the DNV; 220 under Bureau Veritas SA; 180 under Lloyd's Register Group; 126 under Registro Italiano Navale; 70 under the American Bureau of Shipping; 62 under Nippon Kaiji Kyokai; 38 under the Russian Maritime Register of Shipping; 21 under the Polish Register of Shipping; 13 under the China Classification Society; and nine under the Korean Register. No Cyprus-flagged vessels are classed under the Croatian Register of Shipping or the Indian Register of Shipping.

acting on behalf of the Republic, to satisfy itself that they effectively carry out the functions required, while Article 7 states that when the SDM considers that a recognised organisation should no longer be authorised to act on behalf of the Republic, it may suspend or withdraw that authorisation.

The 12 specialised and internationally acclaimed organisations acting on behalf of Cyprus are the following:

- a* American Bureau of Shipping;
- b* Bureau Veritas SA;
- c* China Classification Society;
- d* Croatian Register of Shipping;
- e* DNV;
- f* Korean Register;
- g* Indian Register of Shipping;
- h* Lloyd's Register Group;
- i* Nippon Kaiji Kyokai;
- j* Polish Register of Shipping;
- k* Registro Italiano Navale; and
- l* Russian Maritime Register of Shipping.

#### **iv Environmental regulation**

For air and marine pollution, the key legislation is the International Convention for the Prevention of Pollution from Ships 1973 (as modified by the Protocol of 1978) (MARPOL (73/78)). Through its six Annexes, it regulates the actions to avoid polluting the sea and the air, if that risk of pollution is associated with maritime activities.

The Annexes regulate the risks of pollution from:

- a* oil, in respect of the transport of oil and its products as cargo, and the use of oil or its products as fuel for ship-installed machinery. This refers to the measures to be taken by ships when oil is transported as cargo, or when ships are using oil for their propulsion. There are regulations for loading, discharging, transport, storage, controlling leakages and how to handle residues produced;
- b* noxious liquid substances in bulk (i.e., chemical products transported by sea in bulk form);
- c* noxious liquid substances in packaged form (i.e., chemical products stored in any sort of container);
- d* sewage produced on a ship, including sewage produced by livestock being transported as cargo, in respect of the processing, storage and disposal of sewage and associated systems;
- e* garbage (meaning any sorts of items intended to be disposed of after use, including cargo remnants). MARPOL guides crews on the segregation, processing and disposal of the garbage of a ship, and refers specifically to cargo remnants as a separate category of garbage, and how to process and dispose of it; and
- f* air-polluting emissions produced by the operation of any machinery on board in respect of the ship's operation (including freezing means). MARPOL sets the limits of emissions released either by the engines (main or auxiliary) or any other machinery emitting gases, such as air conditioning and freezer units. A major breakthrough of this Annex was the introduction of the use of fuel with low sulphur on 1 January 2020. Additionally, it regulates the installation and operation of emission control systems, commonly known as 'scrubbers', that are installed on ships to minimise harmful emissions.

Cyprus has ratified all six Annexes by amending the respective national legislation (Law No. 57/1989) on the ratification of each Annex.

For clean ballast water, the Convention for the Control and Management of Ships' Ballast Water and Sediments 2004 (the Ballast Water Management Convention) is fully implemented by Cyprus. Although Cyprus has been a party to this Convention since 2018,<sup>70</sup> Cyprus-flagged ships did not implement it until 2017. The Convention regulates measures to prevent transport of species, new or alien, to a part of the marine environment where they did not exist before, thus altering the ecosystem and posing threats to the marine ecosystem of a territory, through the ballast water taken by ship from one location and discharging it in another. The Convention has a two-part implementation for its flag ships operating worldwide and the ships operating in the sea around Cyprus. The Convention provides for the discharging of ballast water in an area away from the coastline inhabited by local species and taking new water resembling the ecosystem of the coastal state. Furthermore, by 2024, all ships are required to instal a treatment system that cleans ballast water before its discharge.

The Hong Kong Convention for the Safe and Environmentally Sound Recycling of Ships 2009 (the Hong Kong Convention), although not yet implemented internationally, has key provisions provided for in Regulation (EU) No. 1257/2013.<sup>71</sup> The Regulation provides for the procedures to be adhered to by a ship bound for a scrapping yard. Every item on board the ship should be recorded and graded according to the pollutant load to ensure it will be handled accordingly during demolition. Before going to the yard, the ship will have to receive certification that all items have been graded and considered. The yard's procedures should be checked to ensure it properly disposes of the scrapped items, to eliminate or minimise the effects of pollution.

In addition to the main conventions mentioned above, several other supplementary conventions are important in facilitating marine pollution prevention, including:

- a* the CLC Convention, providing for the recovery of expenses after a pollution incident from oil when carried as cargo;
- b* the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 (the Bunker Convention), providing for the recovery of expenses after a pollution incident from oil used as a ship's bunkers;
- c* the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (the Fund Convention), providing for compensation for damage occurring after a pollution incident; and
- d* the International Convention on the Control of Harmful Anti-Fouling Systems on Ships 2001 (the Anti-Fouling Convention).

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70 On 8 November 2018, Cyprus ratified the Ballast Convention to help prevent the spread of potentially harmful aquatic organisms and pathogens in ships' ballast water and, therefore, Cyprus-flagged ships must carry on board an International Ballast Water Management Certificate issued by an authorised recognised organisation.

71 Pursuant to the Regulation and the relevant Circular (No. 29/2015) issued by the SDM, all new and existing ships of 500 GT and above flying the EU flag must carry on board a verified Inventory Of Hazardous Materials [IHM] Report with International IHM Certificate by 31 December 2020. As of that date, ships flying the flag of a third (non-EU) country, when calling at a Cyprus port or anchorage, shall comply with the requirement to have on board a verified IHM report with a Statement of Compliance.

Cyprus has also implemented EU legislation relating to or supplementing the IMO conventions, including:

- a* Regulation (EU) No. 530/2012 on the accelerated phasing-in of double-hull or equivalent design requirements for single-hull oil tankers, to prevent pollution in marine accidents;
- b* Regulation (EC) No. 782/2003 on the prohibition of organotin compounds on ships, to prevent the poisoning of marine life that can occur when such compounds are used as anti-fouling systems on ships;
- c* Regulation (EU) 2015/757 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport;
- d* Regulation (EC) No. 1005/2009 on substances that deplete the ozone layer; and
- e* Directive (EU) 2016/802 relating to a reduction in the sulphur content of certain liquid fuels.

### ***Recent enforcement record***

In line with the enforcement of the above, Cyprus performs random checks on ships arriving in its ports, either under the PSC regime or specifically for pollution control purposes. For example, in the past 24 months, approximately 180 checks on docked ships were carried out to assess whether their fuel complied with new regulations ensuring sulphur content was not above 0.1 per cent, as provided by Directive (EU) 2016/802. The same practice is followed by other Member States for Cyprus-flagged ships.

During the past year, Cyprus checked five ships calling at Cyprus ports that had been reported as polluting the sea area under EU jurisdiction, which were detected by the Clean Sea Net, a system of satellite monitoring operated by the European Maritime Safety Agency.

### ***Environmental legislation***

In terms of environmental regulation, the following laws are also applicable in Cyprus:

- a* regarding international conventions:
  - United Nations Convention on the Law of the Sea 1982 (Ratification) Law of 1988 (Law No. 203/88);
  - International Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean, its Protocols and amendments 1995 (the Barcelona Convention 1976);
  - International Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matters of 1972 (Law No. 38/1990);
  - the Basle Convention on the Control Transboundary Movement of Hazardous Wastes and Their Disposal of 1989 (Law No. 29(III)/1992), as amended;
  - Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters of 1998 (the Aarhus Convention) (Law No. 33(III)/2003); and
  - International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea 1996 (the HNS Convention) and for Matters Connected Therewith Law of 2004 (Law No. 21(III)/2004) (not yet in force);

- b* European regulations and directives:
- Commission Directive (EU) 2015/2087 of 18 November 2015, amending Annex II to Directive 2000/59/EC of the European Parliament and the Council on port reception facilities for ship generated waste and cargo residues;
  - Regulation (EU) No. 757/2015 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport;
  - Water-Framework Directive (Directive 2000/60/EC);
  - Environmental Liability Directive (Directive 2004/35/EC); and
  - Waste Directive (Directive 75/442/EEC);
- c* bilateral agreements:
- Agreement on Merchant Shipping with the government of the Arab Republic of Egypt signed on 26 November 2006;
  - Memorandum of Understanding between the Republic of Cyprus and the Arab Republic of Egypt on in the Field of Environmental Protection signed on 26 November 2006; and
  - Agreement Between Cyprus, Israel and Egypt for Cooperation in Combating Major Marine Pollution Incidents in the Mediterranean Law of 2001 (Law No. 21(III)/2001); and
- d* domestic law:
- Merchant Shipping (Ship Source Pollution) Law of 2008 (Law No. 45(I)/2008) and its subsequent amendments;
  - Protection of the Environment Through Criminal Law of 2012 (Law No. 22(I)/2012);
  - Control of Water Pollution and Soil Law of 2002 (Law No. 106 (I)/2002); and
  - Maritime Strategy Law of 2011 (Law No. 18(I)/2011).

### ***Development of environmental policy***

Another trend is an increasingly green and environmental focus within the shipping industry. New regulatory requirements, internationally and nationally, push the industry towards a greener environment that is also affecting shipping market dynamics in most sectors.

Environmental policy in Cyprus has undergone significant change, owing to increasing alignment of national law with European policy (*acquis communautaire*), which has generated momentum towards environmental protection by making it a political priority. Furthermore, in recent years, the SDM has been promoting environmental protection as one of the major goals on its agenda.

### ***Decarbonisation of Cyprus-flagged vessels***

As a leading EU flag, Cyprus is committed to taking an environmentally sustainable path and supporting the industry in making progress towards its emissions reduction ambitions. In response to the IMO MEPC meeting in November 2020, Cyprus welcomes the approval of the draft mandatory regulations to reduce carbon intensity of ships.

This is a positive step and a building block towards implementation of the IMO's initial strategy for the decarbonisation of shipping. The draft amendments of MARPOL Annex VI, scheduled for formal adoption in June 2021, relate to mandatory goal-based technical and operational measures to reduce carbon intensity, including a review clause for evaluation of the measures in the near future.

Cyprus encourages the examination of proposals put forward for the creation of mechanisms for research and development. This will help to expedite innovation, and enable discussion of initiatives that support the development of low-carbon and zero-carbon technologies from which the shipping industry can benefit.

### ***Financial incentives for environmental preservation***

As a leading maritime nation, Cyprus recognises the need to encourage and reward those realising emissions reductions. The SDM has announced a new range of green incentives to reward vessels that demonstrate effective emissions reductions. The SDM's green incentives programme supports shipowners in making sustainable choices and investing in new green technologies and cleaner operations.

#### *Reduction of tonnage tax for environmentally friendly vessels*

From fiscal year 2021, a reduction of up to 30 per cent of the annual tonnage tax is possible for a Cypriot, EU or EEA ship using mechanisms for preservation of the marine environment and to reduce the effects of climate change. The SDM gives particular importance to the environmental protection, internationally and locally, with the reapproval of the Cyprus tonnage tax, introducing discounted rates for environmentally friendly vessels.<sup>72</sup>

The Cyprus flag will give a 'discount' on its TTS by comparing the emissions reductions required of a vessel with what it achieves; for example:

- a* the Energy Efficiency Design Index (EEDI) – vessels that have achieved further reduction of their attained EEDI compared to the required EEDI (MARPOL Annex VI, Regulation 20) will receive a rebate on annual tonnage of between 5 per cent and 25 per cent;
- b* the IMO data collection system – the environmental incentive here applies to ships of 5,000 GT and above that comply with Regulation 22A of MARPOL Annex VI, and ships that demonstrate a reduction in total fuel oil consumption in relation to the distance travelled, compared to the immediately prior reporting period, will receive a rebate on annual tonnage of between 10 per cent and 20 per cent; and
- c* alternative fuels – vessels using an alternative fuel and achieving reductions in carbon dioxide emissions of at least 20 per cent in comparison with traditional fuels will receive a rebate on annual tonnage tax of between 15 per cent and 30 per cent, which will be reviewed case by case, following a review of the documents submitted from a classification society.

However, any vessel detained for any reason during a PSC inspection – and that violates any European Commission regulation on environmental protection, or is in a laid-up condition (warm or cold) during the calendar year – will not be eligible for any incentive.

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<sup>72</sup> For the purposes of implementing the provisions of Sections 9(1) and 13(1) of the Merchant Shipping (Fees and Taxing Provisions) Laws of 2010-2020, which provide for a reduction of up to 30 per cent on the annual tonnage tax paid by owners of Cyprus ships and EU ships using mechanisms or equipment for the preservation of the marine environment and the reduction of the effects of climate change, the Council of Ministers, in exercise of the powers conferred on it under the provisions of Sections 9(1) and 13(1) of the aforementioned Laws issued the Tonnage Tax (Environmental Incentives) Order of 2021, published in the Official Gazette of the Republic of Cyprus No. 5454,, Suppl. III(I), dated 29 January 2021.



## v Collisions, salvage and wrecks

### *Collisions*

Cyprus has adopted, by way of succession, the Convention for the Unification of Certain Rules of Law with respect to Collisions between Vessels 1910 (the Collision Convention 1910) (extended to Cyprus on 1 February 1913). In addition, as upheld in *Danish Kingdom v. Mystic Isle Navigation Company Ltd*,<sup>73</sup> the UK Maritime Conventions Act of 1911, which ratifies the Collision Convention 1910, applies in Cyprus.<sup>74</sup>

Furthermore, as seen in *The Ship BAYONNE*<sup>75</sup> and in *The Ship NATALEMAR*,<sup>76</sup> the COLREGs (Ratification) and for Matters Connected Therewith Law of 1980 (Law No. 18/80) also applies to all Cyprus and foreign ships within the territorial waters of Cyprus.

Moreover, Cyprus has, by statute, ratified the International Convention for the Unification of Certain Rules Concerning Civil Jurisdiction in Matters of Collision 1952 (Ratification) Law of 1993 (Law No. 31(III)/93) and the International Convention for the Unification of Certain Rules Relating to Penal Jurisdiction in Matters of Collision or other Incidents of Navigation 1952 (Ratification) Law of 1993 (Law No. 32(III)/93).

The Cypriot courts have jurisdiction to hear any claim for damage done to or sustained by a ship in an action *in rem*. A necessary condition for invoking the *in rem* jurisdiction is the physical presence of the *res* within the territorial jurisdiction of the Cypriot courts to enable service of the writ of summons. However, service out of jurisdiction is not available for *in rem* proceedings.

Alternatively, proceedings may be filed against the owners of the vessel if their residence or place of business is in Cyprus. Conversely, if the owners are not Cyprus residents, *in personam* proceedings are subject to the rules of court relating to service out of jurisdiction. Leave of the court is granted if the cause of action arose within the jurisdiction, a related action is before the Cyprus courts or the owners have submitted to the jurisdiction.

### *Competent authority for investigating maritime casualties in the event of a collision*

When a collision occurs anywhere in the world involving a Cyprus-flagged ship or a ship flying a foreign flag within Cyprus' territorial and internal waters, the master, owner, manager or agent of the ship must notify the Marine Accidents Investigation Committee (MAIC). The MAIC is not an enforcement or prosecuting body, but an independent committee responsible for the investigation of all types of marine accidents (casualties and incidents), established on 19 December 2013 by virtue of the Marine Accidents and Incidents Investigation Law of 2012 (Law No. 94 (I)/2012), which transposed Directive 2009/18/EC into Cyprus legislation.

The objective of the MAIC, in investigating an accident, is to prevent future accidents by establishing its cause and circumstances. Its purpose is not to apportion blame or liability; nevertheless, it will not refrain from fully reporting on the causal factors of an accident, from which blame or liability can be inferred. However, the SDM continues to be responsible for investigating marine accidents for certain types of ships (ships not propelled by mechanical

73 (1990) 1 CLR 850.

74 By virtue of Law No. 14/1960, Articles 19(a) and 29(2)(a).

75 (1994) 1 CLR 54.

76 (1999) 1B CLR 1079.

means, wooden ships of primitive build, pleasure yachts or craft not engaged in trade, unless they are or will be crewed and carry more than 12 passengers for commercial purposes; or fishing vessels of less than 15 metres in length).

According to the MAIC, there were 208 maritime accidents in Cyprus in 2019, of which 157 concerned ship safety and 51 concerned the safety of crew and passengers.

### **Salvage**

Cyprus has adopted, by way of succession, the Convention for the Unification of Certain Rules of Law respecting Assistance and Salvage at Sea 1910 (the 1910 Salvage Convention) (extended to Cyprus on 1 February 1913).<sup>77</sup>

As held in *L&M Seamasters Limited*,<sup>78</sup> Cyprus courts will enforce any existing salvage contract, and in assessment of the operation they will apply the common law principles on salvage, as seen in *Cyprus Ports Authority v. the Ship 'Zinovia' and her Cargo*.<sup>79</sup> In the absence of a salvage contract, or if the contract is silent in relation to the salvage operation,<sup>80</sup> Part III of the Wrecks Law, Chapter 298, and the 1910 Salvage Convention apply.

There is no compulsory local form of salvage agreement and, therefore, the Lloyd's Open Form is acceptable.

Any contractual provisions dealing with general average will be followed and the courts will respect the choice of the contracting parties. The York Antwerp Rules have no statutory force in Cyprus and the set of rules to apply is a matter of agreement between the parties.

### **Wrecks**

Cyprus has implemented the Nairobi International Convention on the Removal of Wrecks 2007 (the Nairobi WRC 2007),<sup>81</sup> which requires ships, both Cyprus-flagged and those calling at Cyprus ports, to attest that their insurance will cover any expenses incurred in the removal of a ship that becomes a wreck, or the removal of a ship that poses a threat to the environment. The Nairobi WRC 2007 entered into force in Cyprus on 22 October 2015, as per Article 18(2) of the Convention. In addition, the Wrecks Law, Chapter 298, regulates wrecks in Cyprus. More specifically, it is a private maritime law that regulates enquiries into wrecks and provides for the custody and disposal of wrecked property. Pursuant to Section 8 of the Wrecks Law, Chapter 298, the official receiver of the wreck<sup>82</sup> is responsible for the removal of wrecks in the territory of Cyprus. However, in accordance with Section 16 of the Law, if the owner (or, if the wreck is insured, the underwriter or his or her agent) is present, the receiver shall not interfere with the wreck, unless he or she is requested to do so by the owner or underwriter.

77 Publication of succession by SDM Circular dated 17 April 1992 (FM 1569/69; 103 BSP 297).

78 *L&M Seamasters Limited v 1. The Tug Boat Zohara, Israeli Flag, 2. The Fishing Trawler Black Tiger* (2007) 1A CLR 303.

79 (1990) 1 JSC 655.

80 The Wrecks Law, at Chapter 298, Article 34, and the 1910 Salvage Convention, at Article 8, provide for the method of defining the salvage remuneration.

81 The Nairobi WRC 2007 (Ratification) and for Matters Connected Therewith Law of 2015 (Law No. 12(III)/2015) (Gazette No. 4207, Supplement I (III), dated 29 May 2015).

82 The receiver of the wreck under Cyprus law is the permanent secretary of the SDM.

## vi Passengers' rights

The Merchant Shipping (Liability of Carriers of Passengers by Sea in the Event of Accidents) Law of 2014 (Law No. 5(I)/2014) applies to carriage of passengers<sup>83</sup> of sea-going ships, falling within the scope of the EU Passenger Liability Regulation,<sup>84</sup> which incorporates certain provisions of the Athens Convention. In addition, the Shipwrecked Passengers Law, Chapter 297, and Articles 2(b) and 17 of the LLMC Convention 1976, as amended by the 1996 LLMC Protocol, also apply to maritime passenger claims in Cyprus.

Cyprus is not a contracting state of the Athens Convention, but through Law No. 5(I)/2014, which transposed the EU Passenger Liability Regulation into national law, has incorporated certain provisions of the Convention as *acquis communautaire*.<sup>85</sup> The EU Passenger Liability Regulation sets out limits for death, personal injury, and loss or damage to luggage and vehicles. It lays down a harmonised regime of liability and insurance for the carriage of passengers by sea, based on the Athens Convention and the IMO guidelines for implementation of the Convention, adopted in 2006. More specifically, the contractual carrier is strictly liable under the two tiers of liability regime. For the loss suffered as a result of death or personal injury there is, for the carrier, a *prima facie* limitation right of 250,000 special drawing rights (SDRs) per passenger. This liability can reach up to 400,000 SDRs per passenger if a fault by the carrier is proved. In addition, ships must obtain a certificate from their flag state confirming that insurance or other financial security is in force.<sup>86</sup>

Moreover, Regulation (EU) No. 1177/2010,<sup>87</sup> concerning the rights of passengers when travelling by sea and inland waterway, is also applicable in Cyprus, as well as other EU regulations and decisions of 2015, which introduce a mechanism of imposition of administrative fines for infringement of certain provisions of Regulation (EU) No. 1177/2010.

83 The definition of 'passenger' in Article 1(4) of the Athens Convention (transposed into Cyprus law through the EU Passenger Liability Regulation), encompasses anyone who is carried on a ship under a contract of carriage, or who (with the consent of the carrier) is accompanying a vehicle or live animals covered by a contract of carriage of goods not governed by the Athens Convention. This definition also encompasses the drivers of vehicles carried on board roll-on/roll-off cargo vessels; consequently, the Cyprus authorities consider that cargo vessels that carry more than 12 such persons are also subject to the Athens Convention and the Regulation. Such vessels must therefore have the necessary compulsory insurance in place and submit evidence of insurance cover to obtain the requisite certificate from the Cyprus authorities. International carriage is defined under Article 1(9) of Athens Convention as any carriage in which, according to the contract of carriage, the place of departure and the place of destination are situated in two different states, or in a single state if, according to the contract of carriage or the scheduled itinerary, there is an intermediate port of call in another state.

84 Regulation (EC) No. 392/2009 of the European Parliament and of the Council of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents.

85 This means that the Cypriot courts are not legally bound to follow the Athens Convention in disputes about passenger claims.

86 Operators of ships licensed to carry more than 12 passengers are required to maintain compulsory insurance or other financial security of no fewer than 250,000 special drawing rights (approximately €289,000) per passenger per incident to cover liability under the Athens Convention, in respect of death of and personal injury to passengers.

87 The Regulation provides for a minimum set of rights for passengers travelling by sea and inland waterway. More specifically, it establishes the right to assistance in cases of cancelled or delayed departures and lays down the right in certain circumstances to compensation in cases of delay in arrival. It also aims to provide disabled persons and persons with reduced mobility with the same opportunities for maritime and inland waterway travel as are enjoyed by passengers using other forms of transport across the European Union.

## vii Seafarers' rights

### *Legislative framework*

Most of the relevant domestic legislation and circulars adopt the provisions of international conventions in which Cyprus participates, such as the Maritime Labour Convention 2006 (MLC),<sup>88</sup> which entered into force in Cyprus on 20 August 2013, and the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978 (the STCW Convention). The following are also in force in Cyprus:

- a Merchant Shipping (Safety and Seamen) Law, Chapter 292;
- b Merchant Shipping (Masters and Seamen) Laws of 1963 (Law No. 46/1963), as amended;
- c Merchant Shipping (Safe Manning, Hours of Work and Watchkeeping) Law of 2000 (Law No. 105(I)/2000);
- d Merchant Shipping (Criminal and Disciplinary Liability of Seafarers, Suspension or Cancellation of Certificates) Law of 2000 (Law No. 106(I)/2000);
- e Merchant Shipping (Medical Examination of Seafarers and Issue of Certificates) Law of 2000 (Law No. 107(I)/2000);
- f Merchant Shipping (Registration of Seafarers and Seafarers' Register) Law of 2000 (Law No. 108(I)/2000);
- g Merchant Shipping (Minimum Safety and Health Requirements for Work on Board Fishing Vessels) Law of 2002 (Law No. 160(I) 2002);
- h Merchant Shipping (Minimum Requirements of Medical Treatment on Board Ships) Law of 2002 (Law No. 175(I)/2002);
- i Merchant Shipping (Organisation of Working Time of Seafarers) Law of 2003 (Law No. 79(I)/2003);
- j Merchant Shipping (Issue and Recognition of Certificates and Marine Training) Law of 2008 (Law No. 27(I)/2008);
- k Merchant Shipping (Dietary of the Crew) Regulations 1964 (PI 204/1964);
- l Merchant Shipping (Certificate of Maritime Competency of Radiotelegraph Operators) Regulations 1984 (PI 338/1984);
- m Merchant Shipping (Official Log Books, Ship's Articles and Six-Month Lists) Regulations 2001 (PI 297/2001), as amended; and
- n Merchant Shipping (Medical Examination of Seafarers and Issue of Certificates) (List of Approved Doctors) Notification of 2020 (PI 201/2020).

### *Nationality of crew*

There is no restriction on the nationality of the seafarers on board Cypriot ships, provided they are holders of a valid Cyprus Seafarer's Identification and Sea Service Record Book issued by the Cyprus Maritime Administration. There are also no restrictions on officers' nationality. Moreover, no income tax is charged, levied or collected on the salary or other related benefits from the employment of eligible seafarers (officers, crew members or masters) who are tax residents of Cyprus and are employed on board a Cypriot ship that is a qualifying

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88 Cyprus has been a member of the International Labour Organization since 23 September 1960 and has had a prominent role in forming global shipping policies with a strong presence and powerful voice.

ship engaged in maritime transport. Around 100,000 seafarers are employed on board Cypriot ships and 9,000 shipping personnel are employed on shore. The sector employs around 3 per cent of Cyprus' workforce.

In fact, 280,000 seafarers of 98 nationalities are registered in the Seafarer's Register of the Republic of Cyprus, of which 100,000 actively work on board Cyprus-flagged vessels. Of these, 35 per cent are Filipino, 15 per cent Ukrainians and Russians, 10 per cent Polish, 3.5 per cent from the United Kingdom, and the rest from EU Member States.

### ***Recent detainment of foreign vessels in relation to seafarers' rights***

SDM surveyors<sup>89</sup> recently detained two foreign vessels for non-compliance with the MLC: one in 2020 and one in 2019. The deficiency in both cases was the non-payment of seafarers' wages.

### ***Seafarers vaccination programme***

Cyprus was one of the first countries that recognised seafarers as key workers and implemented a formal crew change process. These measures resulted in more than 10,000 seafarers being repatriated or able to return to work since May 2020. Cyprus continues to prioritise seafarer welfare and is keen to support a practical and coordinated solution to the global crew change crisis.

In response, the SDM has formally proposed a practical, global approach to delivering covid-19 vaccinations to seafarers. In letters to the EU Transport and Health Commissioners and IMO Secretary General, the SDM outlined the proposed programme and emphasised the need for a practical, feasible and collective approach to addressing the issue of seafarer inoculations.

Cyprus recognises that there are challenges with the logistics of a vaccination programme for seafarers, including the country of origin or residence of the seafarers, transport and customer restrictions, availability of approved or authorised vaccines, the two-stage vaccination process, and the subsequent time required for a seafarer to be considered as inoculated. Therefore, Cyprus believes there should be a distinction on the basis of the duration of the sea voyage. The suggested programme comprises two main strands:

- a* for short sea shipping, national measures remain workable and regional cooperation is easier to achieve; and
- b* for deep sea shipping, Cyprus believes that vessels operating on long-distance intercontinental routes should be designated as an isolated covid-19 zone (a 'bubble').

The focus, therefore, should be on seafarers ashore. Cyprus suggests a coordinated global approach to ensure adequate numbers of approved or authorised vaccines, acceptable to all governments, are available to seafarers for inoculation in their country of residence before they travel to join their respective ships.

A resolution for a global seafarers vaccination programme proposed by the SDM has been officially adopted by the International Labour Organization (ILO). It was agreed at the Fourth Meeting of the Special Tripartite Committee of the Maritime Labour Convention 2006 – Part I, held in a virtual format in April 2021.

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<sup>89</sup> The jurisdiction of inspecting and further detaining vessels for MLC deficiencies is derived from the Merchant Shipping (Port State Control) Law of 2011 to 2015, Article 21A.

The resolution builds on the proposal for a global seafarers vaccination programme presented by Cyprus earlier in 2021 to the IMO Secretary General, the International Chamber of Shipping and the European Union.

It is a concrete step in identifying the magnitude of the vaccination challenge and then proceeding collectively with more decisive action, working with the World Health Organisation and pharmaceutical companies to secure sufficient vaccines for seafarers.

The approach requires social partners, in consultation with shipowners' and seafarers' organisations and in coordination with governments and IMO, to undertake a mapping exercise to establish the number of vaccines required for seafarers ashore. In addition, governments and shipowners' and seafarers' organisations are invited to formulate a resolution, communicating to all relevant UN bodies the need for a collective approach to secure the number of vaccines required.

## **VII OUTLOOK**

Given the unique characteristics of the island, Cyprus will always have a prominent place in the global maritime sector. The maritime tax system, registration procedures and other policies attract numerous shipowners annually, making the fleet of ships registered under the Cyprus flag one of the largest in the world. Cyprus is a modern, efficient and integrated shipping cluster ranked among the world leaders. Limassol, the heart of the Cyprus maritime cluster, hosts more than 200 companies offering shipping and shipping-related services, from ownership and management to insurance, finance, brokerage, bunkering, ballast water system production, marine training and maritime technology in satellite and radio systems.

There has been an increasing need to implement measures to minimise air pollution by ships, such as reducing the sulphur content of fuel to one-seventh of the previous limit (now 0.5 per cent instead of 3.5 per cent), have created a number of legislative instruments or amended existing ones, such as MARPOL (73/78). Cyprus has adopted all related legislation. This is the main challenge the shipping sector is facing today and, to meet the targets, effort will be required across the industry for a number of years in many respects, including the availability of compliant fuels, the effects on ships' machinery and the training of crews on proper documentation.

Cyprus has amended its policy on registration of ships, eliminating the age limit and placing trust in the improved quality of ships and the global system of monitoring ship performance in regard to safety and pollution prevention practices. Another interesting innovation is the policy on taxation of shipping activities and the environmental incentives, which offer attractive taxation options to shipowners that have been affected by the recent financial crisis and global recession. In addition, the abolishment of initial registration fees aims to boost the competitiveness of the Register of Cyprus Ships and attract more ship registrations.

As far as the tax benefits the Cyprus flag provides are concerned, there is no tax on the income or profit made from the sale of a qualifying ship, nor is tax on capital gains payable on the transfer of a ship or shares in a shipping company. Also, there is no tax on profits from the operation or management of a Cyprus-registered vessel or on dividends received from a ship-owning company in Cyprus. Furthermore, there is no estate duty on the inheritance of shares in a ship-owning company, nor is registration duty payable on the shares of a shipping company. Moreover, a shipowner whose company is registered in Cyprus is fully exempted

from income taxes on operations in international waters and on compensation and wages for officers on shore and crew on board Cypriot ships. Competitive investment funds legislation offering alternative funding solutions to shipping companies is also provided.

Cyprus has concluded double tax avoidance agreements with 65 countries. Moreover, according to the Cyprus VAT Law,<sup>90</sup> a zero rate of VAT is applicable to:

- a* the supply, modification, repair, maintenance, chartering and hiring of sea-going vessels that are used for navigation on the high seas and carrying paying passengers or that are used for the purpose of commercial, industrial, fishing or other activities; and
- b* the supply of services to meet the direct needs of seagoing vessels.

Committed to safeguarding and enhancing the competitiveness of the Cyprus maritime cluster, the SDM has obtained the approval of the European Union for the prolongation of its TTS for another 10 years. The SDM has taken steps to promote maritime education in Cyprus, while marine and maritime innovation has acquired new momentum with the creation of the Cyprus Marine and Maritime Institute (CMMI).<sup>91</sup> Cyprus takes pride in its role as a member of the IMO Council, the ILO and the European Union, striving to contribute to shaping international policies for greener, smarter and safer shipping.

On 20 May 2020, the SDM signed a memorandum of cooperation with the CMMI confirming the interest of both sides in the development and support of a joint strategy with the aim of encouraging and developing maritime technology and innovation in Cyprus, and promoting bilateral research cooperation in the field of the blue economy.

On 18 September 2019, the Council of Ministers approved a state aid scheme for coastal passenger vessels<sup>92</sup> (*de minimis*), aiming to:

- a* enhance the protection of the marine environment;
- b* upgrade coastal vessels;
- c* further improve health and safety conditions for crew and passengers; and
- d* advance accessibility for people with disabilities.

90 Value Added Tax Law of 2000 (Law No. 95(I)/2000), Article 25 and Schedule 6.

91 The Cyprus Marine and Maritime Institute [CMMI], based in Larnaca, is an independent international scientific and business centre of excellence for marine and maritime activities that carries out research, technological development and innovation activities to provide practical solutions to the challenges that the marine and maritime industry, and society, face or will face in the future. The proposal for the creation of the CMMI was submitted to the European Commission in November 2018 under the HORIZON 2020 ‘Spreading Excellence and Widening Participation’ programme, and the project was eventually awarded the grant. The Municipality of Larnaca is the coordinator of the project; the other partners are the Limassol Chamber of Commerce and Industry, the Maritime Institute of Eastern Mediterranean, Cypriot companies SignalGeneriX and Geolmaging, Irish research organisations Marine Institute and SmartBay Ireland and UK research institute, the Southampton Marine and Maritime Institute.

92 According to the Coastal and other Passenger Vessel Regulations of 2012 (PI 278/2012), ‘coastal passenger vessel’ or ‘vessel’ means a marine craft or a high-speed small vessel (in accordance with Article 2 of The High-Speed Small Vessels Laws of 1992-2001) that transports passengers to and from different parts of the coast of the Republic on sea tours, education and training, amateur fishing, diving, embarkation or disembarkation to another vessel or ship or other related activity along the coast, including small passenger vessels. A coastal passenger vessel can be operated only within three nautical miles of the shores of Cyprus and the maximum number of persons permitted on board is 150, provided that the vessel is licensed to carry that number, whereas a small passenger vessel can be operated within the territorial sea of Cyprus and perform international voyages within sea areas A1 and A2 of the Global Maritime Distress and Safety System. The maximum number of persons permitted on board small passenger vessels is 12.

Beneficiaries of the scheme are physical or legal entities that own coastal passenger vessels (registered under the Cyprus flag) that have been engaged in the coastal passenger industry for no fewer than three of the previous seven years, with at least 60 trips per high season (April to November).

The scheme will be implemented by the SDM for 2019–2022 and has been allocated a budget of €3 million (€1 million per year). Budgetary support will be up to 60 per cent of eligible expenses and will not exceed €200,000 per beneficiary. Pursuant to the scheme, the minimum investment should be €20,000. Currently, 118 coastal passenger vessels of 7,671 GT are registered in the Register of Cyprus Ships.

Following the redevelopment of the old port of Limassol that is now available for pleasure boats and the success of Limassol Marina,<sup>93</sup> which opened in 2014, work has been under way to develop a number of new marina projects to bolster Cyprus' role as a yachting location in the eastern Mediterranean.

The Paralimni Marina<sup>94</sup> and the Ayia Napa Marina<sup>95</sup> are both under construction. They will contribute to the development of nautical tourism and will enrich the tourist offering in the city of Famagusta. Both marinas will be official ports of entry into Cyprus, providing customs and immigration clearance 24 hours a day. Moreover, on 12 February 2020,

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93 The Limassol Marina has already established itself as one of the most attractive and unique projects in Europe. Boasting a capacity of 650 berths, able to accommodate yachts of between eight and 115 metres, Limassol Marina is the first superyacht marina in Cyprus.

94 The project for the construction of the Paralimni Marina commenced in March 2021. It is situated in the Pernera area, where the Agia Triada fishing shelter is currently located and its value will amount around to €100 million, including 300 berths and building sites. The Paralimni Marina is the second major maritime tourism project in the region of the free city of Famagusta after Ayia Napa and the third maritime project in Cyprus for the construction and development of marinas (after Ayia Napa and Larnaca). The construction of Paralimni Marina is expected to take four years, while the marine works are expected to be completed within 34 months.

95 The new Ayia Napa Marina is under construction and is expected to be completed by the end of 2021. It is an ambitious project and is expected to attract investors, bringing further economic growth to the island. The marina will host approximately 600 yachts in wet and dry storage. According to the Decree on Customs Ports of 2021 (PI 31/2021), the Ayia Napa Marina is designated as a 'port of limited use', in which the limited use concerns the boarding and disembarking of cruise ship and pleasure craft passengers with their accompanied luggage. The definition also includes the repair of yachts and the loading of goods for export for special reasons, with the prior approval of the Director of the Customs Department of the Republic of Cyprus. The Ayia Napa maritime port area is also designated as a port of limited use for the boarding and disembarking of crews and passengers of cruise ships and megayachts (with their accompanied luggage), which, owing to their size, cannot dock in Ayia Napa Marina, and for the purposes of oil and supply of cruise ships. This development will upgrade Ayia Napa Marina and strengthen efforts to increase the flow of tourists in the area, creating a completely new category of tourists that did not exist in the past in the free province of Famagusta, placing Ayia Napa on the map for cruise tourism.



the government signed an agreement<sup>96</sup> with an Israeli consortium for the development of Larnaca port and Larnaca Marina<sup>97</sup> with an overall value of €1 billion, which will be the largest investment in Cyprus to date.<sup>98</sup> In addition, following the completion of the privatisation process in February 2017, operations at Limassol port are now provided by three private concessionaires.<sup>99</sup>

Cyprus is one of the few countries that has already succeeded in being included in important cruise programmes<sup>100</sup> for 2021, while Royal Caribbean International will call Limassol its home port for the first time. Meanwhile, seven cruise ships of the Carnival Group remain moored off the anchorage at Moni in Limassol as part of the 'hot lay-up' in less costly Cyprus waters, boosting the island's economy.<sup>101</sup>

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96 The signing of the concession agreement was completed in December 2020 and the 12-month transition period is effective as of January 2021. Construction work on the project is expected to start at the beginning of 2022 and is to be completed in four phases by 2037. The first phase will last five years and, among other things, aims to complete the new infrastructure works, so that citizens can use and enjoy the new spaces created. The works include the expansion and reconstruction of the existing marina, so that it can accommodate 650 boats from five to 150 metres long and offer facilities such as boat repair and services. The upgraded marina will also accommodate megayachts of up to 150 metres and approach a broader clientele than currently. The works also include the construction of a Marina Yacht Club. In addition, the upgraded Larnaca Port will be able to accommodate ships of up to 450 metres in length, such as luxury cruise ships, energy exploration vessels, military and other merchant ships. The port of Larnaca is the second largest of the Republic and until 1973 it was operating as a roadstead with inadequate port facilities. The port is under the jurisdiction of the Cyprus Ports Authority.

97 Larnaca Marina is under the exclusive jurisdiction of the Deputy Ministry of Tourism, which was established in January 2019, replacing the Cyprus Tourism Organisation. The Deputy Ministry of Tourism is responsible, among other things, for the implementation of the Regulation of Marinas Laws of 1977-2002 and the Administration of Leisure Boats Docking Space Laws of 2007-2013.

98 According to the *International Boat Industry* magazine.

99 The concessionaires are: P&O Maritime (GAP Vassilopoulos Group in partnership with P&O Maritime), which will handle marine services for the next 15 years; DP World Limassol Ltd, which is to provide services to vessels of general cargo, break-bulk, ro-ro, oil and gas sector, cruise and passenger vessels within the new passenger terminal for the next 25 years; and Eurogate Container Terminal Limassol, which deals with containerised cargo. Before the privatisation, Limassol port was under the jurisdiction of the Cyprus Ports Authority, which still has jurisdiction within the pier of the port. Limassol port is the largest port facility and the main cruise port of the island. It is considered one of the largest and busiest ports in the Mediterranean, with modern facilities. It can accommodate vessels of any length. Ferries connect Limassol with Greece, Israel, Egypt, Lebanon, among others.

100 For the first time, Royal Caribbean International will begin a round trip in Haifa, Israel, from May 2021. Royal Caribbean has included Cyprus in its cruise schedule for June, July and August 2021 for its most modern and advanced ship, which is expected to arrive in Cyprus about 15 times, between June and August 2021, with the prospect of additional stations in the coming months. In conjunction with Israel's health and tourism authorities, Royal Caribbean will be the first to offer fully vaccinated sailings, where both crew and guests above the age of 16 will be vaccinated against covid-19. Details on the additional health and safety measures to be implemented by Israel and Royal Caribbean will be announced at a later date.

101 A leading cruise ship operator (Carnival cruise line and its sister companies) have chosen to anchor seven of the world's most impressive cruise ships (the Island Princess, Enchanted Princess, Regal Princess and Sky Princess, the Seabourn Sojourn, Seabourn Ovation and Seabourn Encore) off Limassol (in the Limassol Moni anchorage) in a significant financial boost to the Cypriot economy, at a time when it is under pressure because of the covid-19 pandemic. More specifically, the cruise ships have been anchored (with no passengers on board) off Limassol since May 2020, after journeys were cancelled because of coronavirus restrictions and lockdowns, as they could not conduct their trans-Atlantic routes. Only crew are on board the ships. Each vessel contributes

Developments have been also seen in the small port at Vassilikos, on the south coast near the island's main oil terminal. There are plans to develop Vassilikos into an industrial port that will operate as an oil and gas service centre, and it is expected to be ready by 2023. Its strategic location makes Vassilikos the first terminal of its kind in the eastern Mediterranean, connecting Europe and the Black Sea with the Middle East and Asia.

As well as the CMMI and the development of Larnaca port and marina, a plethora of other projects in Larnaca will the city a new and promising maritime centre, including the newly established Cyprus Centre for Land, Open Seas and Port Security.<sup>102</sup>

The fishing industry<sup>103</sup> has developed dramatically in the past few years. On 5 August 2020, a contract was signed for the ambitious revamp of the Liopetri fishing shelter.<sup>104</sup> This €8.5 million project, one of the biggest involving a fishing shelter in Cyprus, includes the construction of a bridge over the Liopetri river, 100 berths for pleasure boats and another 35 for professional fishermen. In addition, there will be a training centre for canoes, coastal paths and facilities for fishermen, contributing significantly to sustainable fishing in Famagusta. The Ormidhia fishing shelter in Larnaca is also under development. This €1.4 million project was signed on 6 April 2021 and construction will take 24 months.

The Network of Scientists and Fishermen of Cyprus, which is co-financed by the European Maritime and Fisheries Fund, was created on 23 September 2020. The Network is led by the Oceanographic Centre at the University of Cyprus and is attended by the Pancyprian Association of Professional Coastal Fishermen, the Professional Fishermen of Multipurpose Boats, the Pancyprian Association of Professional Fishermen of the Small Fishing Boat and the Enalia Physis Environmental Research Centre Ltd. The main objectives of the Network are:

- a* the protection of fisheries;
- b* the safeguarding of the interests and rights of fishermen;
- c* the identification, promotion and resolution of problems related to fisheries; and
- d* the better and sustainable exploitation of fishery stocks.

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around €20,000 per month. More precisely, the vessels pay fees for anchorage, they order goods and services from local suppliers to support the crews on board (there are no passengers) and they use local companies to provide technical support and assistance.

102 In September 2020, the Republic of Cyprus and the United States, in the framework of their bilateral cooperation in the security and defence realm, signed a memorandum of understanding to establish a training facility in Larnaca – the Cyprus Centre for Land, Open Seas and Port Security (CYCLOPS) – which will be Cypriot-owned and has already secured an initial funding sum from the US government for the purpose of establishing and operating. CYCLOPS will allow the United States to provide enhanced technical assistance related to safety and security, including border security, customs and export controls, port and maritime security, along with cybersecurity. Official construction began in February 2021.

103 Cyprus has a long-standing fisheries tradition. Despite its limited contribution to GDP (around 0.8 per cent), the Cypriot fisheries sector holds significant socio-economic importance, particularly in coastal areas. The fishing fleet comprised 858 vessels in 2019, with a combined gross tonnage of 3,811 and total engine power of 40,801kW.

104 The project will be a boost not only to professional fishermen and tourism but will also protect the marine environment. The project is co-financed by the European Maritime and Fisheries Fund (75 per cent) and National Resources of the Republic of Cyprus (25 per cent) and it is expected to be ready before the end of 2022. Construction will take 30 months. The project has been on the cards for some years and was first intended to be launched in 2013 but was postponed because of the economic crisis that year.

In addition to the above-mentioned developments, the one thing that could dramatically drive the growth of Cyprus' shipping industry, and bring about the further expansion of Cyprus' registry, is a viable and functional solution to the lifting of the Turkish embargo on Cypriot ships, which, since 1987,<sup>105</sup> has been the Achilles heel of the Cyprus flag, hindering the development of the Register of Cyprus Ships and of the island's ports.<sup>106</sup>

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105 In April 1987, Turkey imposed restrictive measures exclusively against Cyprus-flagged vessels, prohibiting them to call at Turkish ports. In May 1997, Turkey issued new instructions to its ports and harbours to clarify uncertainties arising from the imposition of the restrictions, thus, extending them against vessels under a foreign flag (of any nationality) sailing to Turkish ports directly from any Cypriot port under the effective control of the Republic of Cyprus (Limassol, Larnaca) and to vessels of any nationality related to the Republic of Cyprus in terms of ownership or ship management. The immediate effect of the May 1997 instructions was to restrict the use of Cypriot ports for trans-shipment operations of shipping lines in the Mediterranean.

106 It is important to note that the Republic of Cyprus fully complies with its international and EU obligations regarding Turkey-flagged vessels, as these vessels can freely call at any port under the effective control of the government of the Republic of Cyprus.

## ABOUT THE AUTHORS

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Zacharias Kapsis is an advocate and legal consultant. He obtained his bachelor degree in law from the National and Kapodistrian University of Athens in 2014 and pursued his master's degree in maritime law at the University of Southampton in 2018. His master's degree focused on the law of the marine environment, admiralty law, marine insurance law, carriage of goods by sea (charter parties and bills of lading), while his dissertation dealt with the seaworthiness of unmanned and autonomous cargo ships. In December 2019, Zacharias graduated from the Adonis Business Academy, where he studied digital marketing and sales, a programme that enhanced his knowledge on modern marketing strategies and sales growth.

Zacharias successfully completed his legal training in November 2015 and he was admitted to the Cyprus Bar Association in 2018. He is a member of the Larnaca Bar Association and the secretary of the Shipping Committee of the Cyprus Bar Association. He is also a member of the Aviation Committee and the Committee on Environment, Energy Law, and Investment Programs of the Cyprus Bar Association. In addition, Zacharias is an affiliate member of both the Cyprus and Hellenic Marine Environment Protection Association. Moreover, Zacharias is a Research Fellow at the Centre for Marine and Maritime Policy Research and Regional Cooperation (CM2PR2C) of the Cyprus Marine and Maritime Institute.

Zacharias joined A Karitzis & Associates LLC in January 2019 and has since been working in the shipping department as a maritime law expert.

### **ANTONIS J KARITZIS**

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Antonis Karitzis is the founder of A Karitzis & Associates LLC. He is an advocate, legal consultant and the managing partner of the firm. He is also a member of the Limassol Bar Association.

Antonis received his law degree from the University of Manchester in 2002. His knowledge and experience extends to various fields, including shipping, corporate, commercial, trusts, tax, property, litigation, admiralty and administrative actions.

He has successfully handled some of the firm's most high-profile cases, including multimillion-dollar claims. Antonis is currently studying with the Chartered Institute of Taxation, a programme that enhances his knowledge on tax issues. He has also completed all the

core courses of the demanding and intensive MBA programme with the Cyprus International Institute of Management and this has equipped him with the requisite knowledge and skills to lead and manage the law firm in a well-organised and diligent manner.

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