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MARITIME LAWYERS

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ILLEGAL TRANSPORT OF OIL IN TANKERS IN VENEZUELA

Last week (8-2-2018) the General Prosecutor announced the arrest of two foreign flagged tankers, in Puerto La Cruz, on illegal oil trafficking charges. He reported that one of them was going to load 300,000 barrels of oil with false documents. The other tanker, as reported, was going to load 30,000 barrels of diesel, also with false documents. The Prosecutor said that by frustrating these shipments, the country saved US\$ 48 million.

The General Prosecutor suggested that this type of crime had been happening in Venezuela for some time. In fact, several cases have already occurred where there had been an attempt to load a considerable cargo of oil with the use of false documents. This kind of crime is relatively new in Venezuela and the authorities consider it serious, as it involves huge amounts of oil, which is a product of the Venezuelan State that plays a strategic role in the country's economy. This circumstance, in practice, may generate difficulties for the vessel involved, even if innocent.

A considerable detention of the vessel can occur if the tanker is not released at the court's hearing that takes place after the end of the criminal investigation which usually last 45 days, so it is crucial to make all efforts in those 45 days to obtain its release in that hearing.

Another difficulty may arise in cases where the registered owner is not involved in the proceeding, and the one who acts in court for the purpose of releasing the vessel is, for example, the bareboat charterer or an operator, since the absence of the registered owner in the proceeding may involve damaging effects.

An additional delicate point is the possibility that the owner may be summoned by the prosecutor's office to come to Venezuela for investigation purposes, and an arrest order is issued through Interpol should the owner fail to show up.

A sensitive aspect also is that the Law that is usually applied to this kind of event is not clear enough as to whether the potential confiscation of the vessel established as sanction for this crime is only possible when the owner is guilty of the offense or if criminal liability does not depend on culpability but must be considered strict.

Close attention to these kinds of cases is the recommendation.



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