

ACTUAL LEGAL BACKGROUND CONCERNING CURRICULAR SEA SERVICES IN SPAIN

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Abstract

More than thirty years ago Shipowners of Spanish flagged vessels were forced to sign on cadets coming from High Technical Schools of Nautical Sciences and Marine Engineering always provided that there was not another cadet on board. It appears that, in those days, the Spanish Government believed this was necessary to protect national merchant fleet. Nowadays, unfortunately, the Spanish fleet has been reduced considerably and, in addition to this, actual internal legal regulations are more restrictive than before with regard to the possibility for the students to carry out sea services. Because of that, Schools are currently finding a lot of problems to get a ship where the student may practice the knowledge that has been acquired at University. The aim of this paper is to study the legal background regarding the curricular sea services based on three stages: an historical review, current situation and the future. Moreover, some possible solutions to this problem are discussed at the end of the research.

Keywords: cadets, curricular sea services.

1 INTRODUCTION

First of all, it is important to mention some definitions of keywords:

- Curricular sea services are the necessary internship carried out by the students on board a ship before obtaining the corresponding professional qualification [1]
- Cadets are the students carrying out curricular sea services on board the ships.

Currently in Spain the studies to reach a qualification to work on board a ship may be divided in two: the University studies directed to get a Master, Chief Engineer or Ship Officer qualification and the Training Colleges studies directed to obtain the Skipper or Naval Mechanic qualification. The students of both centres have to carry out curricular sea services to obtain the professional certification and even to finish their studies. Currently the university students have many difficulties to carry out curricular services on board the ships and this problematic situation is to be dealt with in this paper. In particular, the aim of this paper is to summarise the current legislation regarding the cadets and to examine some interesting regulations that existed in the past. The paper is focused on the university studies although, sometimes, some legislation regarding Training Colleges' students is also cited in comparative way. To finish the paper and as conclusion, some possible corrective measures to assure curricular sea services for university students will be mentioned.

2 HISTORICAL REVIEW OF CURRICULAR SEA SERVICES IN SPAIN

More than one century ago, the Royal Decree dated 13th October 1913 on the Regulations for the Implementation of the Law regarding Protection and Development of Maritime Communications and Industries dated 14th January 1909 referred to internal rules to encourage and protect the Spanish merchant fleet. These measures were implanted by the payment of a bonus of 0.40 and 0.50 pesetas per gross registered ton and one thousand miles of navigation to those Spanish ships who provided some services or agreed some obligations. One of these measures was the obligation for the Spanish shipowners to sign on cadets on board their own ships.

Thus, the article 37 said:

"To enjoy the bonus of 0.40 and 0.50 pesetas per gross registered ton and one thousand miles of navigation, the following conditions are required: ...

... 3) *The ship admits, under the obligatory form and way in accordance to her size, cadets from the Official Nautical Colleges or Special Schools of Maritime Industries and Deck Officers under internship.*

In return of bonus payment, the shipowners had to accept on board their ships a minimum number of cadets depending on the ship size and to defray at least the return voyage cost for the repatriation of the cadet. The rules also differed between deck and engine cadet.

The text of article 41 was as follows:

“ ... with regard to the admission of students from the Nautical Colleges, the number of them that each ship with the right to bonus will have to sign on board will be as follows:

One cadet for deck or engines up to 2,500 gross registered tones

Two cadets; one for deck and another for engines, from 2,500 up to 4,000 gross registered tons; and

Three cadets, two for deck and one for engines or vice versa, from 4,000 gross registered tons.

It will not be forced to sign on more than one cadet on board ships of more than 2,500 gross registered tons always provided that there is not any vacancy on board ships of less tonnage; and more than two cadet on board ships of more than 4,000 tons always provided that there is not any vacancy on board ships from 2,000 tons to 4,000 tons.”

In respect of voyage costs, the article 48 said:

“The cadet embarkation costs will be on his account. The repatriation costs will be on ship’s account except in the cases that the cadet is expelled from the ship due to serious faults committed on board against the Master authority or disciplinary rules.”

In this way, the Spanish Government protected their own maritime industries and the ship owners assured themselves that there would be ship officers for deck and engine in future.

These regulations were in force for more than half a century and were modified depending on the number and type of ships in the Spanish fleet and the number of Spanish students who needed to carry out curricular sea services. In this respect, the Order 13th of March 1957 and the Order 5th of March 1966 brought corrective measures against a ships-cadet imbalance and a lack of a particular type of vessels, respectively.

Order 13th of March 1957 said the following:

“The embarkation of deck and engine cadets under the regulation (...). Nowadays, due to the high number of ships in service with Spanish crew, there are serious difficulties to hold the vacancies in the position of officers and, at the same time, there are a large number of cadets waiting for a ship where they can complete the compulsory curricular sea services to take the examinations for deck officer or second engineer.”

Order 5th of March 1966 said the following:

“The lack of stem ships in our merchant fleet makes it more and more difficult for the engine cadets to sign on them in order to complete the curricular sea services together with the delay in their student progress. In order to solve this problem, it is necessary to modify the distribution of deck and engine cadets on board stem ships, without altering the total number of cadets that a ship must accept, in such a way that engine cadets can complete their curricular sea services on board stem ships, given that the deck cadets may carry them out on board ships of different propulsion system.

Once Spain became a member of the European Union, the measures to protect the Spanish merchant fleet and to assure enough officers to their ships were considerably reduced. In that sense, the current Law 27/1992 of State Ports and Merchant Marine permits non-Spanish citizens to sign on Spanish ship. The article 77.2 says the following in respect of the crew:

«The Captain and Chief Mate of national vessels must be nationals of a Member State of the European Economic Area, except in cases where the Maritime Administration lays down that these jobs are to be filled by citizens of Spanish nationality ... (...). The rest of the crew, in the case of merchant ships, shall be of Spanish nationality or from any other Member State of the European Economic Area, at least 50 percent. »

This article let us see that the nationality of at least 50 percent of the officers, except Master and Chief Mate, may be of foreign origin. Later, it was modified by the article 23 of the Law 25/2009 where some

rules are adapted to the free access and practice of professional activities. Under this law currently in force, the crewmembers coming from other countries different from those belonging the European Economic Area may be even more than 50 percent.

As can see from these last regulations, the present policy is focused on meeting demand of ship officers with foreign workers instead of promoting the education on board of future Spanish ship officers.

Nevertheless, the Spanish Government have been subsidizing the upkeep of the cadets on board Spanish fleet by means of a payment to the Spanish Shipowners Association (ANAVE). It is important to mention that, under the article 25.3 of the Royal Decree 973/2009 currently in force, the shipowners have to support the insurance and voyage expenses when the cadets have signed an internship contract. Usually the shipowners cover these expenses, in addition to the running costs, although there is no signed contract. Therefore state aid may defray a percentage of these costs. In addition, other local Governments, such as the Basque Government, have also financed part of these costs to the members of the Basque Shipowners Association (ANAVAS) [2]. However, the shipowners complain about the small percentage of the cost financed. Moreover, these funds have been progressively reduced in the last years due to the world economic crisis.

3 CURRENT SITUATION

Nowadays the conditions required by the Spanish Administration to provide seafarers with their respective qualifications is regulated by the Royal Decree 973/2009 dated 12th June 2009 amended by the Royal Decree 80/2014 dated 7th February 2014. These regulations abolish the Royal Decree 2062/1999, even though, the Order of 21th June 2001, which extended some rules of the Royal Decree Of 1999, is currently in force. Moreover, most present rules applicable to the cadets on board are collected by this Order.

In respect of the time that the cadet has to be signed on for gaining admission to the examination for ship officer, the Royal Decree 973/2009 establishes the following:

- Minimum embarkation period as deck cadet for Deck Officer examination access: 12 months of which at least 6 months must be as watch keeping activities according to the STCW Code.
- Minimum embarkation period as engine cadet for Engine Officer examination access: 6 months.

Concerning the type of ships on which the cadet can perform the curricular sea services, the Order of 21th June 2001 says the following:

Article 8.1: *“The curricular services for deck or engine cadets will be performed on board Spanish or foreign civilian ships (...).”*

Article 9.1.a: *“(...) curricular sea services must be performed on board the following ships: (a) in order to obtain the 2nd Class Deck Officer qualification, signing on board merchant ships of more than 100 GT and authorizing training ships of more than 50 GT as cadet.”*

Article 10.1.a: *“(...) curricular sea services must be performed on board the following ships: (a) in order to obtain the 2nd Class Engine Officer qualification, signing on board civilian ships powered by engines of more than 750 kW as cadet.”*

In summary, the cadets can enlist in the following ships:

- Spanish or foreign ships. Contrary to this, the article 25.4 of Royal Decree 973/2009 says: *“(...), the cadets are permitted to sign on board Spanish flagged ships to perform the obligatory curricular sea services, always provided that they are insured accordingly.”* Nevertheless, this article was modified recently by the Royal Decree 80/2014 to include foreign flagged ships as in the Order of 21th June 2001.
- Civilian or merchant ships. Deck cadets can only perform the curricular sea services on board merchant ships and engine cadet on civilian ships. The differences between both may be found in the article 2.9 and 2.10 of Royal Decree 973/2009 related to term definitions:

Article 2.9: *“Civilian ship: any ship, vessel, platform or floating crafts, with displacement or not, approved for navigation and different from a warship”*

Article 2.10: *“Merchant ship: is a civilian ship approved for sea navigation, except the fishing vessels, pleasure yachts not engaged in trade or wooden ships of primitive build, according to article III of STCW Convention.”*

Therefore, deck cadets are limited in respect of the type of ships where the curricular sea services can be performed and, obviously, this point may be relevant in future.

- Ships of more than 100 GT for deck cadets, except in the case of a training ship.
- Ships powered by engines of more than 750 kW for engine cadets.
- Training ships: in this case the deck cadet can perform the curricular sea services on board training ships of more than 50 GT. The article 25.7 of Royal Decree 973/2009 deal with the training ships as follows:

“The Development Ministry, through the Merchant Marine General Directorate, by means of the pertinent collaboration agreement, may designate as training ships those Spanish merchant ships capable to admit at least six cadets.”

Later, the Royal Decree 80/2014 will modify the minimum number of cadets to only two.

Other point to bear in mind is that the cadets are treated under the Order of 21th June 2001 in the different way depending on the studies they have done. The students from the University must enlist in as cadets and those coming from the Training Colleges may do it as able seamen as well. In that sense, the articles 9.1.b 10.1.b and 10.1.c of this Order say the following:

Article 9.1.b: *“(…) curricular sea services must be performed on board the following ships: (b) in order to obtain the High Waters or Coastal Skipper qualification, signing on board civilian ships of more than 20 GT as cadet or deck able seaman, including authorizing training ships.”*

Article 10.1.b: *“(…) curricular sea services must be performed on board the following ships: (b) in order to obtain the Main Naval Mechanic qualification, signing on board civilian ships powered by engines of more than 500 kW as cadet or engine able seaman.”*

Article 10.1.c: *“(…) curricular sea services must be performed on board the following ships: (c) in order to obtain the Naval Mechanic qualification, signing on board civilian ships powered by engines between 200 and 3,500 kW as cadet or engine able seaman.”*

In addition to these rules currently in force, it is important to know shipowners' opinion on the embarkation of cadets. Those who support the curricular sea services try to train competent officers for their ships in future. However, they complain about the uncertainty arising from the possibility the the cadet leaves their ships because of lack of vocation, preference for other types of ships or preference for other company with higher wages. Therefore, the investment to keep the cadets on board in not always recovered. Some of the shipowners consulted would prefer to keep cadets on board for a long time under a long-term agreement, in such a way that once the cadet has finished the curricular sea services; he/she goes on enlisted in as officer.

4 THE FUTURE

The future for the existence of Spanish Masters, Chief Engineers, Chief Mates and Ship Officers on board of worldwide merchant fleet may be at risk. If the university students cannot carry out their curricular sea services, there will not be Ship Officers on board the merchant ships in future. By extension, there will not be good professionals concerning ships and cargo surveyors, ship technical managers and other works related to the multiple tasks carried out by the officers of a merchant ship.

Next some potential measures to protect the curricular sea services for university students are listed:

- The curricular sea services for accessing to deck and engine officers qualification should be permitted both as cadet and as able seamen, always provided that the students fulfill a training programme according to rules II/1 and III/1 of STCW Convention and have finished the first course in the university. The students would be already skilled to work as able seaman according to the articles 9.3 and 10.3 of the Order of 21th June 2001 which permit the students of the Higher Technical Schools of Nautical Sciences and Marine Engineering to request the deck or engine able seaman qualification to the Administration.
- The curricular sea services for the access to deck officer qualifications should be permitted on board merchant ships of more than 100 GT and civilian ships of more than 500 GT. Services on

board civilian ships may be performed on board large fishing vessel where the student may carry out watch keeping and cargo handling tasks.

- Obligation by law for the shipowners to sign on board their ships a minimum number of cadets provided that they have been financed in any way by the Government. As previously mentioned, this measure was already in place during most of 20th century.
- Promotion of training ships for university students. In this respect, a few years ago Spanish Government ordered to build the training ship “INTERMARES” for the training of students from the Training Colleges. In the same way, other smaller training ships are currently operative as the “ORTZE”. The “SALTILLO” requires a special mention since she is the only training ship belonging to a Spanish university.
- Sponsorship under long term agreement between the cadet and the shipowner from the first embarkation to carry out curricular sea services up to a specific qualification as ship officer or engine officer.

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