



ASIAN SHIPOWNERS FORUM SHIP INSURANCE AND LIABILITY COMMITTEE

c/o Hong Kong Shipowners Association
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アジア船主フォーラム船舶保険・法務委員会(SILC)の第21回中間会合が2016年2月23日に香港で開催された。同会合では保険、法務を巡る諸問題について意見交換が行われるとともに、特に参加者の関心が高かったプレステージ号事故に関するスペイン最高裁の判決について概要以下のプレスリリースを行った。

【プレスリリース（抄訳）】（詳細は原文参照下さい）

アジア船主はこの度のプレステージ号に関する判決に深刻な危惧を覚えた。

スペイン最高裁はプレステージ号の事故に関する下級審の判決を覆し、マンガラス船長に“無謀行為”があったとして、船長の重過失について有罪判決を下した。この判決に対しASF船舶保険・法務委員会（以下、委員会）は強い懸念を表明した。

スペイン最高裁は、船体の状態が悪化するなかマンガラス船長が下した決断と行動には重過失があったと認定した。海技者からみれば、多くの要素を含んだこの判決は信じがたいくらい非現実的なものといえる。マンガラス船長の行動は、非常に困難な状況のなかで乗組員、船舶そして海洋環境を守るために出来得る限りのことを行ったものであり、船舶の旗国からは“称賛に値する”と評価された。

ロバート・ホー委員長は中間会合で次のように述べた。“スペイン最高裁が通常の、そして一般的に容認された法手続きから逸脱して、下級審の事実認定を覆し、どう見ても信じがたいような事実認定にすり替えたことは、はなはだ遺憾である。そしてこのことはやっかいな徴候を示している。今後、先進的かつ最も高い法水準を有する国であっても、政治的動機に阿るため法手続きを巧みに改竄しようとする国もでてくる恐れがある。”

事故につながった多くの要因は偶発的に発生したもので、事故から14年も経ても事態が改善されないなか、強い不満が80代の船長に向けられたものといえる。マンガラス船長が事故の初期段階で避難場所の提供を拒否され、代わりに港湾当局から現実を考慮していない“指示”を受けたという事実があるにもかかわらず、当局の誰も刑事上の有罪判決を受けてはいない。事故が起きた場合、船員だけを糾弾することは誤った考え方であり極めて問題である。

委員会は、避難場所に関するEUの新たな行動指針に留意し、同指針が今後欧州の国で起きる事故の対処に役立つことを期待した。



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PRESS RELEASE

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Asian Shipowners Deeply Troubled by the recent *Prestige* judgment.

During its recent Interim meeting, the Ship Insurance and Liability Committee of the Asian Shipowners Forum expressed its deep concern over the recent decision of the Spanish Supreme Court to reverse the findings of the lower court and find that Captain Mangouras, the master of the ill-fated *Prestige*, acted 'recklessly' and was therefore guilty of gross negligence.

In a widely condemned and worrying decision, the Spanish Supreme Court found Captain Mangouras guilty of gross negligence for decisions taken during the voyage and his actions as the accident unfolded. The judgment contains many elements that, in any mariner's opinion, would be seen as being incredible and unrealistic. The actions of Captain Mangouras were described as 'exemplary' by the Vessel's flag State, as with incredible bravery in very difficult conditions he did all he could to protect his crew, the ship and the environment.

"It is a pity," said Mr. Robert Ho the Chairman of the Committee, "that the Spanish Supreme Court has decided to depart from normal and accepted legal process by overturning findings of fact made by a lower court, and substituting findings that cannot, in any event, be seen as credible and plausible. This is a worrying sign that some States, even in apparently well developed countries and by utilising the highest legal level, would appear willing to manipulate the legal process to meet their short term and political needs."

The Committee commented that it is the coincidence of many factors that result in an accident or incident, and to heap full blame on an octogenarian ship's master some 14 years after the event cannot be correct. The Committee expressed concern that everyone involved ashore escaped criminal conviction, despite the fact that the request made by Captain Mangouras in the early stages of the incident for a place of refuge was denied, and subsequent 'orders' from ashore did not take the actual situation into account. It is wrong and deeply troubling, in the Committee's view, that seafarers should be singled out for blame when an incident takes place.

The Committee expects that the new EU Operational Guidelines on Places of Refuge will assist European States in their handling of future incidents.

The Asian Shipowners' Forum is a voluntary organization of the shipowner associations of Australia, China, Chinese Taipei, Hong Kong, India, Japan, Korea and the Federation of ASEAN Shipowners' Associations comprising shipping associations of ASEAN countries. The aims of the ASF are to promote the interests of the Asian shipowning industries. Between annual ASF meetings, the ongoing work is carried out by the five Standing Committees; the Shipping Economics Review Committee, the Seafarers Committee, the Ship Recycling Committee, the Safe Navigation and Environment Committee, and the Ship Insurance and Liability Committee. It has been estimated that ASF owners and managers control and operate nearly 50% of the world's cargo carrying fleet.