

The lawyers of Lex Marine law office successfully defended the interests of Owners in a case related to the misdeclaration of a ship's supplies before the local Customs.

At the end of May 2018 mv Star Artemis called Nikolayev port. The master submitted to the Customs office the IMO ship's store declaration where he indicated that there were 174,8 mt of diesel oil remaining on board. When the Customs officers performed a custom examination of the vessel, they found that there were 188,015 mt of diesel oil, which was 13,215mt more than was declared by the master.

The Customs officers issued a protocol for violation of customs rules by the master for misdeclaration of 13,215 mt of diesel oil and charged him for the violation of article 472 of the Custom Code of Ukraine.

It should be said that the above mentioned article prescribes rather harsh sanctions, namely, a confiscation of undeclared goods and a fine equal to the cost of undeclared goods.

The Customs officers evaluated that the cost of undeclared 13,215 mt of diesel was about USD 10 500.

The same day, a Harbour master based on a request of the Customs office, prohibited the vessel to leave the port until the Owners put a security to the account of Customs.

The Owners had to put a security in total amount of USD 21 000: for the fine in amount of USD 10 500 and for the cost of undeclared diesel oil in the same amount (bearing in mind that the diesel oil could not be exempted from the vessel's tanks due to technical reasons).

Later,
the administrative materials were passed to the consideration of a local court
who at the end of the May 2018 found the master guilty and charged USD 21 000
to the income of the State.

The
lawyers of Lex Marine law office were engaged to the process in February 2019
upon relevant request of the Owners.

The
first issue was to renew the time bar for appeal of the decision of the first
instance court, which were considerably missed (according to procedural rules
there is 10 days to file an appeal). We managed to convince the appeal court to
renew the missed time bar based on the fact that the master was not properly
notified about the court hearings and later was not served with the copy of the
court's decision.

In
the middle of the May 2019, the appeal court satisfied our appeal motion: found
master not guilty and reverted USD 21 000 to the Owners.

In
spite of the fact that the appeal motion had more than 10 main points
describing the reasons to reveal the master from the liability, the appeal
court used only one of them, namely the court held that the Customs officers
violated the master's procedural rights for a qualified interpreter who should
be skilled in the native language of the master – Filipino.

Taking
into consideration that at that time, the Customs office had already remitted
the money to the State Treasury, we applied to the latter with the relevant
request and at the end of the August 2019 the Owners got their money back.