

A clear gap to be filled up in the Italian shipping regulation

Garbarino Vergani Law Firm unveils the problem existing in the field of limitation of shipowner liability

In a recent decision issued on 14th February 2017, the Tribunal of Nola has evidenced a clear gap in the Italian law system concerning limitation of shipowner liability.

The issue – which has been evidenced a number of times by different Italian writers and contributors, however patently ignored, at least so far, by the Italian legislator – comes from the very inaccurate drafting of Legislative Decree no. 111 / 2012 by which Italy made effective Directive 2009/20/CE on the insurance of shipowners for maritime claims.

When confining the application of Section 275 of the Italian Code of Navigation – covering limitation of shipowner liability under Italian Law – to vessels having a deadweight not exceeding 300 tons, the Decree did not consider that Italy had not ratified the London Convention 1976 on the limitation of shipowner liability and relevant Protocols nor any Italian statutory



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instrument has brought the principles set out in the Convention into Italian legislation.

The quite obvious consequence – now clearly evidenced by the decision rendered by the Tribunal of Nola – was to deprive all

the Italian flag vessels having a deadweight exceeding 300 tons and their liability insurers of the fundamental benefit of the limitation of shipowner liability.

To be very clear: the present state of Italian law as correctly settled by the Tribunal of Nola is that Owners and Insurers of Italian flag vessels with a deadweight exceeding 300 tons cannot limit their liability.

Reacting to this manifest gap in our legislation caused by the 2012 reform, the Tribunal of Nola did not hesitate to recall the analogia legis to extend to all the Italian flagged vessels (also those having a deadweight well in excess of 300 tons) the original limitation of shipowner liability regime as provided by the original draft of Section 275 of the Italian Code of Navigation.

In grounding its reasoning however the Tribunal of Nola does not extend the limitation of liability (intended as a fundamental principle of the Italian law system) to a matter which does not appear regulated, thus putting in place an analogia iuris approach to the matter; rather it patently neglects and disregards a clear abrogative piece of legislation which had confined the limitation of shipowner liability regime, as originally provided by the Italian Code of Navigation, to vessels having a deadweight not exceeding 300 tons.

A more correct approach to the matter would have probably led to an application before the Italian Constitutional Court to judge on the compliance of Decree no. 111/2012 with the principle of Italian legislation in the part it has partially abrogated Section 275 of the Code of Navigation.

Having said that, the Tribunal of Nola correctly pointed out a subject which does call for immediate and careful review by part of the Italian Parliament.



Candy Group extends pluriannual partnership with Kuehne + Nagel

The Swiss logistics operator will manage the complex supply chain of the European leader in the household appliance and floor care market under a new 3-year contract

Candy Group, among European leaders in the household appliance and floor care market, has awarded Kuehne + Nagel a new 3-year contract to manage its complex supply chain, looking back on 8 years of cooperation.

Now, Kuehne + Nagel is the Italian company's integrated logistics partner and acts as a booking agent and controls operational activities from order issuance to final delivery all over Europe including Russia and Turkey. The new contract governs the management of overseas shipment of finished product and, occasionally, of raw materials, components and spare parts, both by sea and air transport. In addition, Kuehne + Nagel manages all vendors, supplier and receivers via its operational control tower. Visibility and monitoring - key issues for Candy Group - are guaranteed through KN Login, Kuehne + Nagel's information logistics system, which enables the customer to monitor activities, such as movement of containers, customs activities and inland deliveries, and to track IT orders. "We selected Kuehne + Nagel to be our partner due to its capability to perform a global effective control tower and due to

the availability to understand and meet the customer needs, commented Sidney Pinzani, Candy Group Supply Chain Director.

"We are pleased to prolong this successful partnership which underlines our expertise in overseas shipment. Our focus is



on adding value to Candy Group's supply chain by providing a consistent high quality service to increase efficiency and allow more flexible order and sea transport management" Ruggero Poli, Managing Director of Kuehne + Nagel Italy, said

With 70,000 employees at an 1,300 locations in 100 countries Kuehne + Nagel Group is one of the world's leading logistics companies; in Italy it operates across 30 locations with 600,000 sqm under management and a workforce of 2,500 employees.