

Due Diligence in ship registration: *The Cyprus Flag Administration's perspective*

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Introduction

Due Diligence: *definition*

Due Diligence plays an increasingly important role in international law and the law of the sea.

In terms of dictionary definitions, “due diligence” has been defined as:

- the degree of care that is to be reasonably expected or that is legally required.
- an assessing and evaluating conducted with prudent or necessary care.
- the care that a reasonable person exercises to avoid harm to other persons or their property.



Introduction

In the Corfu Channel Judgement, the International Court of Justice, in defining the due diligence principle, ruled that it is “every State's *obligation not to allow knowingly its territory to be used for acts contrary to the rights of other States.*”

According to the International Tribunal for the Law of the Sea Advisory Opinion of 21st May 2024 on the request of the Commission of Small Island States on Climate Change and International Law:

- “The obligation of due diligence requires a State to put in place a national system, including legislation, administrative procedures and an enforcement mechanism necessary to regulate the activities in question, and to exercise adequate vigilance to make such a system function efficiently, with a view to achieving the intended objective”. [paragraph 235 of the ITLOS Advisory Opinion].
- “The standard of this obligation is determined by, among other factors, an assessment of the risk and level of harm combined. ” [paragraph 397 of the ITLOS Advisory Opinion].”



Presentation Structure

In presenting due diligence in ship registration in the Cyprus Register of Ships, the following will be addressed:

Part I

- Overview of the Cyprus national legal framework on ship registration.

Part II

- Key features of due diligence established practices and checks.



Part I: Overview of the Cyprus national legal framework on ship registration

1. Cyprus Registry: Legal Infrastructure

The Register of Cyprus Ships was initially established in 1963 and it is governed by

The Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws of 1963 to 2020 (Law No. 45/1963, as amended).

The Register of Cyprus Ships in essence exists for the fulfilment by the Republic of Cyprus of its conventional obligations arising under the 1982 United Nations Convention on the Law of the Sea (UNCLOS, Art. 91, 92 & 94).



Part I: Overview of the Cyprus national legal framework on ship registration

The Merchant Shipping Legislation is comprised of around 350 pieces of legislation.

The CY registry is bound by and implements the International Conventions to which the Republic of Cyprus is a party which includes the IMO Instruments on safety, security, liability and pollution prevention and ILO Instruments.

Since Cyprus is an EU Member State, the CY Registry also applies the EU acquis on maritime transport.



Part I: Overview of the Cyprus national legal framework on ship registration

In addition, the provisions of the Government Policy on the Registration of Ships under the Cyprus flag (*presently* [Circular No. 6/2022](#)) which is adopted pursuant to section 14B of Law 45/1963 as amended, also apply.

Types of ship registration:

- Provisional Registration
- Permanent Registration
- Parallel –In (Bareboat Charter-in) Registration
- Parallel –Out (Bareboat Charter-out) Registration



Part I: Overview of the Cyprus national legal framework on ship registration

2. Conditions of ownership: Who can own a Cyprus ship?

- Citizens of the EU/EEA.
- EU/ EEA registered legal entities.
- Non-EU/ EEA registered legal entities controlled by EU citizens.

If the owner of the ship is not a Cyprus national or a company incorporated in the Republic of Cyprus



required to appoint and maintain an authorised representative in the Republic of Cyprus or ensure that the management of the vessel is entrusted in full to a Cypriot or EU/ EEA shipmanagement company having its place of business in CY.



Part I: Overview of the Cyprus national legal framework on ship registration

3. Who can register a Cyprus ship?

- Under the *Advocates Laws of Cyprus* (Cap.2) **only lawyers**, registered as practising advocates in Cyprus are entitled to carry out ship registry transactions. This includes:
 - ✓ *Ship Registration*
 - ✓ *Transfers of Ownership*
 - ✓ *Registrations, transfers and discharges of mortgages*
 - ✓ *Change of ship's name and alteration of ship particulars*
 - ✓ *Deletion of ships from the Register of Cyprus Ships*

Therefore, all registry transactions must be carried out through a local registered advocate.



Part I: Overview of the Cyprus national legal framework on ship registration

4. Powers of the Shipping Deputy Minister under Law 45/1963 as amended

- **Section 14A “Power to Shipping Deputy Minister to give directions for the non-registration of ships”:**

The Shipping Deputy Minister has the power, where the registration of a particular ship or of a particular class of ships in the Cyprus Register would be contrary to the general policy followed by the Government of the Republic or to the public interest in general, to give directions to the Registrar not to effect the registration of such ship or ships.

- **Section 6A “Power of the Shipping Deputy Minister to revoke the character of a Cyprus ship”:**

The Shipping Deputy Minister has the power to order the revocation of nationality of a Cyprus ship if a Cyprus ship is used in a manner that is harmful for the reputation of the Cyprus flag, repeatedly violates laws or international treaties, or engages in operations against the public interest. This includes issues with the seaworthiness, crew conditions, or licensing of the ship. The Deputy Minister can also revoke the nationality of a Cyprus ship if at any stage registration conditions are not met.



Part I: Overview of the Cyprus national legal framework on ship registration

5. Criminal Offences for forgery of documents/ false declarations under Law 45/1963 as amended

- **Section 72 “Forgery of documents”:**

Forgery or fraudulent alteration of registration documents (builder's certificate, certificate of survey, certificate of registration, declaration, bill of sale, instrument of mortgage, or certificate of mortgage or sale,) constitutes a criminal offence punishable by imprisonment and/ or a fine.

- **Section 73 “False declarations”:**

Submission of false declarations to the Registrar or production of documents concerning the title or ownership of, or the interest existing in any ship, or any share in a ship, constitutes a criminal offence punishable by imprisonment and/ or a fine.



Part II: Due Diligence established practices and checks

1. Purpose of due diligence

In addition to the obligations that our ship registry performs on a 24/7 basis in order to have a high-quality fleet and to ensure implementation of its obligations pertaining to safety, security, environmental protection, liability and protection of seafarers' rights,

- due diligence is performed for all registry transactions in order to:
- establish ownership and vessel identification.
- ensure that fraudulent registration or abuse of the Cyprus flag do not take place.
- safeguard compliance with economic/ trade sanctions (United Nations Security Council Resolutions and European Union restrictive measures).



Part II: Due Diligence established practices and checks

2. SDM Quality Control System - ISO 9001:2015

The Shipping Deputy Ministry has an ISO 9001:2015 Quality Control System covering all operational activities of flag State. From the point of view of ship registration the following three procedures are relevant:

P. 1120 - Ship Registration

This procedure describes the actions taken, for a vessel to be registered in the Register of Cyprus Ships.

P.1130 - Deletion of Ships

This procedure describes the actions taken, for a vessel to be deleted from the Register of Cyprus Ships.

P.1110 - Issuing or renewal of Civil Liability Certificates to Cyprus Flagged vessels

This procedure describes the actions taken by the appropriate personnel of the Shipping Deputy Ministry (SDM), for the issuing or renewal of Civil Liability Certificates attesting that there is in force a policy of insurance for a Cyprus vessel in accordance with the IMO Civil Liability Conventions and the Athens Passenger Liability Regulation (EC) No.392/2009.



Part II: Due Diligence established practices and checks

3. Authorised actors to perform ship registry transactions

Registry transactions are **only performed**:

- by the Registrar of Cyprus Ships and Assistant Registrars who are all officers/ scientific staff (mainly maritime affairs officers with a legal background and marine surveyors) of the Shipping Deputy Ministry of the Republic of Cyprus. The list of authorised Assistant Registrars of Cyprus Ships (names/ positions) is published on the SDM website for transparency/ fraud prevention purposes.
- at the offices of the Shipping Deputy Ministry in Cyprus and abroad (6 offices abroad: Athens, Brussels, London, Hamburg, New York and Rotterdam staffed by competent officers/ scientific staff of the SDM).



Part II: Due Diligence established practices and checks

4. Other relevant national legislation

Pursuant to the **Prevention and Suppression of Money Laundering Activities Laws of 2007 to 2024** (*Law 188(I)/2007 as amended*), the Cyprus Bar Association (CBA) constitutes a “**supervisory authority**”.

Pursuant to these Laws and the Directives issued by the CBA to its members by virtue of said Laws, **client identification procedures** and **due diligence obligations** derive.



Part II: Due Diligence established practices and checks

Pursuant to **national Law 58(I)/2016** (Law on the Implementation of the Provisions of the Resolutions or Decisions of United Nations Security Council (Sanctions) and of the Decisions and Regulations of the Council of the European Union (Restrictive Measures)):

- all national competent authorities, including the SDM, and
- all supervisory authorities, such as the Cyprus Bar Association and the Institute of Certified Public Accountants of Cyprus

have a duty to implement the UN/ EU sanctions.

In order to promote compliance of the Cyprus shipping industry with sanctions/ restrictive measures the SDM issues **Sanctions Information Notices** addressed to the ships flying the Cyprus flag, those who manage such ships and to the local shipping Industry. These are available on the SDM's website.



Part II: Due Diligence established practices and checks

5. Due Diligence on ownership

In addition to the due diligence checks performed at the lawyers' level (through whom all registry transactions are performed) the following constitute key features of the checks performed by the Registrar of Cyprus Ships exclusively by officers with a legal background:

Ownership:

- Thorough review of documents, including, in case of legal entities, certificates of incorporation, directors and shareholders certificates and passports as well as, bills of sale and previous registry documents and IMO Unique Company and Registered Owner Identification Number checks, to ascertain ownership.
- Ensure that the vessel is not owned by a natural or legal person subject to UN sanctions or EU restrictive measures.



Part II: Due Diligence established practices and checks

6. Due Diligence on vessels

Vessels:

- high standard criteria set out in the Government Policy on Ship Registration are applied such as criteria pertaining to vessel's age and safety record.
 - ➔ **The Cyprus flag is consistently placed on the white lists of Paris and Tokyo MoUs**
- **previous flag and thorough ship particular checks** (*inc.* IMO number) are carried out in order to **ascertain vessel identity** and ensure that it is not under a **UN/ EU sanctions regime**, or has been reported as **fraudulently registered/ abusive** of another State's flag.
 - ✓ *Assembly Resolution A.923(22) "MEASURES TO PREVENT THE REGISTRATION OF "PHANTOM" SHIPS".*
 - ✓ *Assembly Resolution A.1142(31) "MEASURES TO PREVENT THE FRAUDULENT REGISTRATION AND FRAUDULENT REGISTRIES OF SHIPS".*
 - ✓ *LEG.1/Circ.10 "RECOMMENDED BEST PRACTICES TO ASSIST IN COMBATING FRAUDULENT REGISTRATION AND FRAUDULENT REGISTRIES OF SHIPS".*



Part II: Due Diligence established practices and checks

7. Sources and databases used

Certain **sources** and **databases** are used for performing these checks:

- IMO GISIS (Global Integrated Shipping Information System).
- The United Nations Security Council [Consolidated List](#)
- The [consolidated list](#) of individuals, groups and organisations subject to EU financial sanctions which DG FISMA (EU Commission's Directorate-General for Financial Stability, Financial Services and Capital Markets Union) manages and updates.
- The [EU sanctions map](#).
- Databases such as Lloyd's List Intelligence and Equasis.



Part II: Due Diligence established practices and checks

8. Due diligence: vessel's classification societies and insurers

Setting high ship registration standards pertaining to **vessel's classification societies** and **insurers** is perceived by the Cyprus Registry as directly associated with due diligence:

Classification societies:

No ship is registered in the Register of Cyprus ships **unless** classed with a classification society (recognised organisation) which is a member of the International Association of Classification Societies (**IACS**) and approved by the EU. The SDM:

- has a written agreement with each Classification society which governs their authorization to act on the flag's behalf.
- performs audits and monitors the authorized classification societies.
- has a quality control system in place/ ISO procedures governing the monitoring of classification societies.



Part II: Due Diligence established practices and checks

Insurers:

In implementing legislation and International Conventions on compulsory insurance (such as CLC, Bunkers, Wreck Removal, Athens PLR and Directive 2009/20/EC on the insurance of shipowners for maritime claims), the SDM only accepts insurers (Protection and Indemnity Clubs) that are members of the International Group of P&I Clubs and a very small number of prudent and well-established insurers outside the IG that have been approved following a thorough review.

Circular LEG.1/Circ.16 *“Guidelines for Accepting Insurance Certificates and Insurance Companies, Financial Security Providers, and Protection and Indemnity Clubs (P & I Clubs)” is taken into account.*



Part II: Due Diligence established practices and checks

9. Existing online tools and Digital transformation of the Cyprus Ship Registry

Existing online tools that contribute to fraud and abuse of flag prevention are the following online/ access free tools available to the public and mainly used by shipowners, seafarers, coastal authorities, port authorities :

Online Verification on the SDM website of:

- Certificates of Cyprus Registry (registration/ deletion certificates).
- Civil liability certificate for vessels (CLC, Bunkers, Wreck Removal, Athens PLR).
- Seafarers certificates.

The SDM is under a process of Digital transformation, replacing its current system in place.

The complete Digitalization of our Ship Registration process will undeniably constitute an additional new tool for enhancing relevant due diligence.



Conclusion

- Due diligence on ship registration is an ongoing and challenging process that has become increasingly important due to the safety, security, insurance and environmental risks posed by today's shipping.
- International cooperation is required to address this challenge, as the shipping industry is global in nature.
- Further discussions by the IMO Legal Committee on the development of relevant non-mandatory guidelines or best practices on the registration of ships, under the new output agreed at LEG 112, may contribute towards these efforts.



THANK YOU



Shipping Deputy Ministry

