



**SVENSKA SJÖRÄTTSFÖRENINGEN**  
The Swedish Maritime Law Association

To  
Comité Maritime International

16 January 2006

**CMI International Working Group on the Fair Treatment of Seafarers**

**REPLY**

**of the Swedish Maritime Law association to the WG's**

**QUESTIONNAIRE**

1. The Swedish Maritime Administration is responsible for administrative issues regarding maritime safety and oil pollution at sea. The Swedish Coast Guard supervises that the rules are followed and is also in charge of oil pollution clean up measures at sea.
2. Maritime accidents are investigated by a maritime inquiry handled by the respective maritime court, which is competent for the incident, *inter alia*, depending on where the incident occurred. The role of the Swedish Coastguard includes investigating whether a maritime accident or oil pollution has been caused by wilful misconduct or negligence.

3. Crew members may be held liable under Swedish criminal law. The penalty is either a fine or imprisonment depending on whether the maritime accident was caused by wilful misconduct or negligence. Oil pollution in the Exclusive Economical Zone can only be subject to a fine.
4. See above.
5. Where oil pollution in Swedish territorial waters is considered to have been caused by wilful misconduct a crew member may be sentenced to prison. During the investigation a crew member may also be taken into custody.
6. A decision in this respect will have to be made on a case by case basis. Important considerations may include the likelihood of a crew member returning, or, for example, the gravity of the case.
7. No.
8. In case of a crew member being imprisoned, the prison authorities are responsible for the protection, rights and welfare of the crew member.
9. As regards responsibility see 5. above. Otherwise, crew members may appear as witnesses in the investigation process.
10. Negligence is sufficient to warrant sentencing for illegal oil pollution. See above 3. and 5.
11. See above 3. and 5.
12. Sweden has jurisdiction in the Exclusive Economical Zone in respect of oil pollution. However, other coercive measures are applicable than those applicable for to pollution in territorial waters. It must be clear that the pollution originated from a specific Vessel and that the pollution has caused or will cause severe damage to Swedish interests. Measures could also be taken if the pollution has caused or will cause considerable damage to the Marine environment. Furthermore, if the Captain withholds vital information, actions may be taken against the vessel, should the circumstances so demand.
13. a. Usually, crew members are not taken into custody. A sentence to 1 year's imprisonment is a condition for being placed in custody. Reference is also made to item 6 above.  
  
b. The rights are the same as for Swedish citizens.

- c. Yes
- d. The time in custody is, of course, subject to the time needed for the investigation process. The prosecutor usually has two weeks within which to present his case to the court and during this period the defendant may be required to remain in custody unless the prosecutor decides otherwise.  
  
Sweden has only had one case of detained crew members. They had to remain in custody for 2 ½ weeks but were immediately released after the first court hearing, since it was not considered necessary to keep them in custody any further.
- e. Usually in police custody.
- f. They are entitled to be assisted by a public defence lawyer at the cost of the state, but the appointment of a defence lawyer of their own choice and at their own expense is also possible.
- g. A defence lawyer always has the right to visit his client and usually other visitors too. However, depending upon restrictions imposed because of the investigation as such, family members and others may be denied visiting rights.
- h. Yes

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Stockholm, 16 January 2006

On behalf of the Swedish Maritime Law Association,

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