

## ANNEX 8

### APPEAL AND REVIEW PROCEDURES

#### **Section 1      Appeal Procedure**

- 1      Section 3.12 of the Med MoU memorandum states that "the owner or the operator of a ship will have the right of appeal against a detention decision to higher administrative Authority or to the Court of competent jurisdiction, according to the law in each country. However, an appeal shall not cause the detention to be suspended."
- 2      Owners or operators are advised to use the official Authority's procedure if they wish to appeal against a detention order. The basic appeal procedures in the Med MoU member States are listed in the document called: Appeal procedures in Med MoU member States (as published on the website [www.medmou.org](http://www.medmou.org)).

#### **Section 2      Review Procedure**

- 1      In case an owner or operator declines to use the Authority's official appeal procedure but still wishes to complain about a detention decision, such a complaint should be sent to the flag State or the Recognised Organisation (if authorized to act for the flag State).
- 2      The flag State or Recognised Organisation may then ask the port State to reconsider its decision to detain the ship.
- 3      In such cases the port State should investigate the decision and inform the flag State or the Recognised Organisation of the outcome. If the port State agrees to reserve its decision it should also inform the Med MoU database manager and the Med MoU Secretariat.
- 4      If the flag State or the Recognised Organisation disagrees with the outcome of the investigation as mentioned above, a request for review may be sent within 90 days, from the date of detention, to the Med MoU Secretariat. Such a request should be accompanied by all information relevant to the detention in electronic format (submission by E-mail to: [secretariat@medmou.org](mailto:secretariat@medmou.org)) and in English language.
- 5      The Secretariat will set up a "Review Panel: comprising of the Secretariat as Coordinator and 3 MoU Authorities requested on an alphabetically rotating basis, excluding the port and flag State. The Secretariat will also inform the port State of the request of review and invite the port State to submit relevant information in electronic format.
- 6      The Review Panel will consider the procedural and technical aspects of the inspection based on the information provided by the flag State and / or the Recognised Organisation and the port State. The Review Panel members return their opinions to the Secretariat. Should additional information been required, the Secretariat will arrange this information to be provided to all Review Panel members. The detail of correspondence is kept as an internal matter. The Review Panel findings represent a majority opinion

- 7** The Secretariat will prepare a summary of the opinions of the Review Panel and will inform the flag State or the Recognised Organisation, as appropriate, the port State and the MoU advisory Board.
- 8** If the view of the Review Panel supports the flag State or the Recognised Organisation's complaint, the port State will be requested to reconsider its decision again.
- 9** The findings of the Review Panel are not binding but could provide justification for the port State to amend its inspection data already inserted in the database and to inform the database manager and the Secretariat accordingly. The Secretariat will inform the flag State or Recognised Organisation, as appropriate on the action (not) taken by the Port State.
- 10** The findings of Review Panel could not be used as a ground for claiming a financial compensation.

## Appeal procedure in Med MoU member States:

### Algeria:

Appeal against the decision of detention on account of the Algerian Maritime Code shall be made by the owner or master concerned through the consular office of the flag state.

The appeal shall be made within 10 days after the date of detention and writing to the president of central safety commission by letter or telefax.

The appeal against this detention order does not suspend its execution.

Address:

Ministère des Transports  
Direction de la Marine Marchande

TELFAX :

### Cyprus:

The decision of a surveyor to prohibit the sail of a ship pursuant to the provisions of Law 47(I)/2001 as amended, may be challenged by objection brought forward before the Director of the Department of Merchant Shipping by the owner, or the operator of the ship, or his representative in Cyprus.

The right to object shall be exercised in writing within a deadline of 48 hours of working days as from the time of the delivery of the notification of the prohibition of sail to the master. Any objection submitted shall not suspend the execution of the decision. The Director shall examine the objection and shall, after having heard the interested parties or having given them the opportunity to express their views in writing, issue a decision on it, pursuant to subsection (4), the latest within 48 hours of working days

The Director may decide

- to confirm the challenged decision.
- to declare the challenged decision null and void
- to amend the challenged decision
- to issue a new decision in substitution for the challenged decision

and shall communicate the decision he issues to the person filing the objection, as well as the master of the ship involved, if he is not the person making the objection. The owner or the operator of the ship or his representative, may challenge by a hierarchical recourse to the Minister of Communications and Works, any of the following decisions, concerning the ship and having been issued under Law 47(I)/2001 as amended by Law 27(I)/2004:

- a decision of the surveyor for the prohibition of sail,
- a decision of the Competent Authority for the prohibition of access to a port of Cyprus,
- a decision of the Director, issued as stated above

A hierarchical recourse before the Minister shall be exercised in writing within a deadline of 5 days from the service, of the notification of the challenged decision to the master of the ship. The hierarchical recourse shall not suspend the execution of the decision. The Minister shall examine the recourse and shall, after having heard the interested parties or having given them the opportunity to express their views in writing, issue a decision on it the latest within a deadline of 10 days.

The Minister may decide

- to confirm the challenged decision.
- to declare the challenged decision null and void
- to amend the challenged decision
- to issue a new decision in substitution for the challenged decision.

and shall communicate the decision he issues, to the person filing the recourse, as well as the master of the ship involved if he is not the one making the objection.

## Egypt:

### Appeal

Appeal against the decision of detention on account of Port State Control Act may be made by any person who has been directly affected in his interests by this decision. An appeal shall not cause the detention to be suspended.

Appeal shall be made to the Minister Of Transport, through the chairman of the Egyptian Authority For Maritime safety.

The appeal shall be made within 6 weeks after the date of the detention and shall be written in Arabic or English language by letter, telegraph or telex.

The detention shall not be released until, according to the professional judgment of the Port State Control-officer, all the deficiencies have been given for the reimbursement of the costs.

Time:.....Date:.....

Master of M/V:

Name:

Signature:

M/V Stamp:

## Lebanon:

1. Appeal against the decision of detention on account of the Port State Control Act may be made by any person who has been directly affected in his interests by this decision.
2. An appeal shall not cause the detention to be suspended.
3. Appeal shall be made to the Minister of Public Works & Transport, through the Head of Directorate General of Land and Maritime Transport.
4. The appeal shall be made within 6 weeks of the date of the detention and shall be written in Arabic or English language by letter, telegraph or telex.

## Malta:

In accordance with Regulation 12 of the Merchant Shipping (Port State Control) Regulations, 2004, the owner or the operator of a ship or his representative in Malta shall have a right of appeal against a decision of detention or stoppage of operation or refusal of access taken by the competent authority. Regulation 12 states that:

12. (1) Subject to the provisions of this regulation, the owner or the operator of a ship or his representative in Malta shall have a right of appeal against a decision for detention or stoppage of operation or refusal of access taken by the competent authority.

(2) The competent authority shall properly inform the master of a ship referred to in sub-regulation (1) hereof, of the right of appeal.

(3) An appeal shall not cause the detention or stoppage of operation or refusal of access to be suspended.

(4) An appeal against a decision for detention or stoppage of operation or refusal of access may be made by means of an application before the Court of Appeal (Inferior Jurisdiction).

(5) An appeal for the purpose of sub-regulation (4) hereof shall be filed within twenty days of the service of the order of detention or stoppage of operation or the day of refusal

of access, as the case may be, and shall be served on the Executive Director who shall reply thereto within ten days of notification.

(6) If the owner or the operator of a ship or his representative in Malta shows to the satisfaction of the Court that:

- (a) the matter did not constitute a valid basis for the relevant inspector's opinion, and
- (b) there were no reasonable grounds for the inspector to form that opinion,

the Court may award the owner such compensation in respect of any actual loss suffered by him in consequence of the detention or stoppage of operation or refusal of access as it deems fit

(7) The burden of satisfying the Court as to the matters specified in sub-regulation 6 hereof, shall lie with the owner or the operator of a ship or his representative in Malta, as the case may be.

(8) The Court shall also have regard, in coming to its decision, to any matters not specified in the order of detention or stoppage of operation or in the refusal of access order that appears to it to be relevant as to whether the ship was or was not liable to be detained or refused access.

(9) Where the Court decides, that the matter did not constitute a valid basis for the inspector's opinion, it shall either cancel the order of detention or refusal of access or shall affirm the order with such modifications as it may in the circumstances deem fit.

(10) The Court shall include in its findings whether there was or not a valid basis for the order of detention or refusal of access.

### **Moroccan:**

In accordance to the Maritime Code of 31 March 1919 as amended, the captain or the owner shall have the right of appeal before the Merchant Director against a decision of detention of his ship taken by the Port state Control officer.

The appeal shall be made in writing (in Arabic, French or English) within a deadline of 15 days from the delivery of the notification of the detention,

The appeal does not suspend the detention decision.

### **Address:**

Merchant Marine Directorate  
Boulevard Felix Houphouet BOIGNY  
Casablanca – Morocco  
Fax: + 212 522 273 340  
Mail: dnm@dmm.gov.ma  
admarine@iam.net.ma

### **Turkey:**

1. Appeal against the detention decision shall be made by the owner or the operator of a ship or his representative in Turkey and shall be made to the Under secretariat for Maritime Affairs. The appeal against the detention order does not suspend its execution.

Address:  
GMK Bulvari No: 128  
06100Maltepe/Ankara, TURKEY  
Fax: +903122313306

2. The appeal shall be made within 30 days after the date of detention and shall be in writing to the under secretariat for Maritime Affairs by letter.