



Marine casualties and administrative inquiries in Italy

Under Italian Law specific administrative inquiries are conducted when a marine accident occurs.

These inquiries, of a different kind and purpose, are governed by the Italian Code of Navigation and by special laws.

The inquiries do not have judicial nature and in general may have two purposes: 1. establishing the cause and the responsibility of the event, and 2. acquiring information and data which may assist in preventing future accidents.

It may happen that in relation to the same maritime casualty different kinds of investigations are conducted by administrative Authorities.

The Summary Inquiry

This is provided for by article 578 of the Italian Code of Navigation: when notice of a maritime accident is given to the Maritime Authority (Harbour Master/Coast Guard) this latter has to carry out promptly those activities which are necessary to ascertain the circumstances and the causes of the accident and to preserve the evidence for future further investigations.

The investigation activities are reported to the District Maritime Authority which is competent to consider whether to conduct a Formal Inquiry on the incident.

The records of investigations made during the Summary Inquiry may be made available on request to the parties having an interest in the incident. However, the findings of the Maritime Authority (Harbour Master/Coast Guard) are kept confidential pending the outcome of the Formal Inquiry. The records of the Summary Inquiry may include the statements of the crew of the involved unit(s) taken immediately after the accident. This may amount to valuable evidence for the purpose of court proceedings. Access to the records is restricted when criminal investigations are pending.

The Formal Inquiry

This is governed by articles from 579 to 583 of the Italian Code of Navigation and by arts. from 467 to 474 of the Rules for the Implementation to the Code of Navigation.

The purpose of this inquiry is to establish the causes and the responsibilities of the accident.

The inquiry is carried out ex officio when (i) it appears from the records and findings of the Summary Inquiry that the accident was caused by negligence or wilful misconduct, (ii) in respect of casualties involving cargo and passengers ships when the accident occurs within Italian territorial waters.

The Board of Inquiry carries out the investigation by site inspections, deposition of witnesses and any other activity deemed appropriate under the circumstances.

The interested parties, including the owner of the ship, crewmembers, insurers, those who have suffered personal injuries or other damages as a consequence of the accident, are entitled to attend and participate in the investigation. The interested parties may be assisted by a lawyer and / or by a technical expert and may be authorised to file submissions and documents.

Upon completion of the Formal Inquiry a report is issued describing the investigation activities carried out, the findings and conclusions on causation and responsibility.

Factual circumstances ascertained in the report of the Formal Inquiry are deemed as established in judicial proceedings regarding marine accidents, unless proof to the contrary is given by one of the interested parties.

Verification of the facts contained in the “report of extraordinary event”

When exceptional facts occur to ship or cargo during the voyage the Captain of the ship must report accordingly to the Harbour Master of the port of destination (articles 182 and 304 of the Italian Code of Navigation).

Article 584 of the Italian Code of Navigation provides that the report of the Captain is then forwarded to the President of the local Court or to the Diplomatic Authority for the facts to be verified also with the assistance of witnesses' examination.

It must be said that this happens very seldom or at all nowadays.

Art. 584 also provides that once the report of the captain is confirmed, the reported facts are deemed to be established in civil proceedings, unless rebuttal evidence is offered by any interested party.

The Inquiry on accidents at work

When a crewmember is injured, either on board or ashore, and the injury causes his death or his temporary work inability for more than 30 days, a special inquiry is carried out by the Local Maritime Authority or by the Consular Authority with the assistance of a member of the Labour Inspectorate.

The rules set out by articles 578 to 584 of the Italian Code of Navigation (Summary ad Formal Inquiries) are followed by the proceeding Authority.

The Special Technical Investigation for improving security of navigation, safety of human life and for preventing pollution at sea

Legislative Decree no. 165 of 6.9.2011 implemented EU Directive 2009/18/CE establishing the

fundamental principles governing the investigation of accidents in the maritime transport sector. Pursuant to this law, special technical investigations into maritime casualties are conducted for the purpose of elaborating proposals for enhancing the technical legislation for maritime safety and pollution prevention. The special technical investigation is not carried out for the purpose of ruling on liability.

The special technical investigation is conducted by a permanent Agency (“DIGIFEMA”) established within the Italian Department of Sustainable Infrastructures and Mobility with powers to investigate on “very serious casualties” (as defined in the IMO Code for the Investigation of Marine Casualties and Incidents) which involve ships flying the Italian Flag or that occur within Italian territorial waters or that in any event involve a general interest of the Country.

When the casualty qualifies as “serious casualty” (as defined in Circular MSC-MEPC.3/Circ.3 of the IMO Maritime Safety Committee and Marine Environment Protection Committee of 18 December 2008), the Agency has discretion to decide whether the investigation is to be conducted. The Agency is provided with wide investigation powers and is entitled to cooperate with any judicial Authority investigating on the same occurrence.

The Agency is requested to issue the investigation Report within one year from the accident’s date and to forward copy of it also to the European Commission.

Specific recommendations with the aim of preventing future accidents are addressed by the Agency to the Department of Sustainable Infrastructures and Mobility and to the European Commission which can adopt the proper orders / measures in such respect.

The evidence acquired during the special technical investigation cannot be used for any other purpose. Witness statements must be handled in such a way to ensure that the identity of witnesses remains confidential.

Per ulteriori informazioni Vi preghiamo di contattare:

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