

The Enforcement of Criminal Law For Ship Sailing Without Letter of Consent of Syahbandar

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Abstract. The state requires every national and foreign ship to have a Sailing Permit and use pilotage services when navigating waters designated by the government as mandatory pilotage waters, and for this service, ships are subject to fees. Article 1 point 34 of Law Number 17 of 2008 concerning Shipping states that ship safety is proven by a certificate after inspection and testing. This examination is an illustrative subjective sort, specifically research that expects to comprehend the peculiarity of what is capable by research subjects. The captain of a ship that sails his ship without a Sailing Approval Letter is a violation of criminal law. Criminal responsibility for the skipper, in this case, is following statutory provisions, that is, he can be punished with imprisonment and a fine under the criminal provisions in Article 323 of Law no. 17 of 2008 concerning Shipping. The seaworthiness of a ship is the responsibility of the ship owner or operator. The condition of a seaworthy ship is the basic capital of the owner or operator of the ship to rent cargo spaces for transportation or to rent them out for this purpose. Not only criminal threats for the captain but the owner or operator of the ship who does not maintain the seaworthiness of his ship, if he orders the ship to continue sailing even though it does not have an SPB, based on Article 305 UUP can be subject to criminal sanctions and fines.

Keywords: Crime, Shipping, Sanctions

1. Introduction

Indonesia has an archipelagic shape, where ships have a very important role in transportation on national shipping, including for distributing goods or as carriers of passengers between Indonesian regions and for facilitating the flow of imports and exports.

In addition, there are also various traditional boats used to catch fish for people who are in coastal areas in Indonesia, including the coastal area of Belawan, North Sumatra. Likewise, in other regions, various traditional vessels made are used as fishing vessels. It is observed by the Service of Transportation, the Directorate General of Ocean Transportation, as control is done by Syahbandar.

Various aspects must be considered for ship safety, in addition to providing services on national or international shipping. Based on Law no. 17 of 2008 concerning Shipping, in essence, provides matters relating to the ship's seaworthiness component in which the ship is required to complete various requirements such as ship security, protection of marine pollution from ships, cargo limits, manning, pollution, passenger safety and crew peace, ship position according to law, the management of ship security and safety when sailing in special waters. To

keep up with the wellbeing of the boat, security control is done beginning from the time the boat is planned or worked until the boat is not generally utilized. This checking is done by the public authority, where the approved authority who has been named has full position to complete and do observing the satisfaction of the arrangements of the regulations and guidelines to safeguard the security and wellbeing of transportation. The official who has this authority is *Syahbandar*.

The state requires every national and foreign ship to have a Sailing Permit and use pilotage services when navigating waters designated by the government as mandatory pilotage waters, and for this service, ships are subject to fees. Article 1 point 34 Law Number 17 of 2008 concerning Shipping states that the safety of ships is proven by certificates after inspection and testing, that safety certificates are given to all types of ships with a size of more than 7 GT, except for warships, state ships and ships which used for sporting purposes. Ship seaworthiness is a major requirement for ship safety and security as stipulated in Article 117 paragraph (1) of Law Number 17 of 2008 concerning Shipping. [1] The prerequisites for transport wellbeing as directed in Article 124 section (2) incorporate materials, development, structures, hardware and power, dependability, design, and gear including helper hardware and radio, and boat gadgets, as proven from the review pass endorsement and testing gave by the Clergyman.

Law Number 17 of 2008 concerning Shipping gives responsibility to the captain as a party that plays an important role in sea transportation. Ship safety requirements are the responsibility of the captain and/or crew which must notify the Safety Inspection Officer. Tests and inspections carried out by safety inspection officials are important factors to consider before the ship sails.

Article 1 number (41) of Law Number 17 of 2008: [2]

“concerning Shipping explains that the captain of the ship is one of the crew who is the highest leader on the ship and has certain authorities and responsibilities in accordance with the provisions of laws and regulations. Article 138 paragraph (3) of Law No. 17 of 2008 concerning Shipping confirms that before the ship sails, the captain is obliged to ensure that the ship meets the seaworthiness requirements and reports this to the Harbor Master. Article 154 of Law Number 17 of 2008 Regarding Shipping states that the legal status of a ship can be determined after going through a process: a. ship measurements; b. ship registration; and c. determine the nationality of the ship. Furthermore, Article 219 paragraph (1) also states that the sailing approval letter is one of the important and mandatory documents issued by the Harbor Master and must be owned by every ship that undertakes a voyage leaving the port.”

The government has also established regulations in such a way for security and law enforcement in water areas. However, the problem that often occurs in society is regarding the authority to implement security and law enforcement in the marine waters area which is always not guided by statutory regulations. This has resulted in overlapping authorities between fellow law enforcement officers in the waters so that there is no legal certainty that is created through justification for wrong behavior.

The crook case that has happened regarding this issue is in regards to the instance of cruising without a Cruising Grant gave by *Syahbandar* Article 323 (1) of Regulation Number 17 of 2008 concerning Transportation affirms that the chief who sails without having a Cruising Endorsement Letter gave by *Syahbandar* as alluded to in Article 219 section (1) of Regulation Number 17 of 2008 concerning Delivery. will be rebuffed with detainment for a limit of 5 (five) years and a fine of up to Rp. 600,000,000.00.

Alluding to Article 207 section (1) of Regulation no. 17 of 2008 concerning Transportation. So Syahbandar completes his obligations to keep up with the security and wellbeing of delivery including checking, policing, execution in the field of transportation in port waters and getting the oceanic zone at ports. The job of the syahbandar specifically is exceptionally critical, both in supporting the testament of stability of boats that will sail, security and wellbeing, as well as all ocean transport delivering exercises in Indonesian waters.

2. Method

This examination is an illustrative subjective sort, specifically research that expects to comprehend the peculiarity of what is capable by research subjects, for instance conduct, discernments, inspirations, and activities with humanistic juridical in light of legitimate hypothesis and see the truth that happens in the public eye.[3] The research approach carried out by researchers is a normative juridical approach, concepts, and case studies (case study design), which is a research approach that aims to maintain the integrity of the symptoms studied.[4]

Sources of data used in conducting this research consist of:

- a. Primary legal material, that is:
 - 1) Book of Criminal Law;
 - 2) the Criminal Procedure Code;
 - 3) Law Number 17 of 2008 Concerning Shipping;
 - 4) Guideline of the Clergyman of Transportation of the Republic of Indonesia Number PM 25 of 2016 concerning Rundown of Travelers and Crossing Transport Vehicles;
 - 5) Guideline of the Pastor of Transportation of the Republic of Indonesia Number PM 25 of 2016 concerning Rundown of Travelers and Crossing Transport Vehicles.
- b. Secondary legal materials, namely books related to the problem under study, results = results of research in the form of theses and journals from legal circles.
- c. Tertiary lawful materials, in particular as legitimate word references or reference book word references.

This qualitative juridical analysis is basically an explanation of existing theories, so that these theories can be drawn a number of things which can be used as conclusions in this research.

3. Findings and Discussion

3.1 The Terms of Sailing in Indonesia

Sailing Approval Letter can be obtained by submitting an application to *Syahbandar*. Article 207 of Law Number 17 of 2008 concerning Shipping, states that the function of a *syahbandar* is;

- a. Paragraph (1); Syahbandar does the capability of delivery wellbeing and security which incorporates execution, oversight and policing the field of transportation in waters, ports, and assurance of the oceanic climate at ports;

- b. Paragraph (2); as well as doing the capabilities alluded to in passage (1), the Harbor Expert aides complete hunt and salvage (Search and Salvage/SAR) as per the arrangements of the regulations and guidelines; And
- c. Paragraph (3); *Syahbandar* is named by the Clergyman subsequent to satisfying capability necessities in the field of delivery security and security as well as harbormaster.

Provisions regarding the requirements for obtaining a Sailing Approval Letter based on Law Number 17 of 2008 namely:

- a. The captain or ship owner must submit an application to the *Syahbandar* by attaching the ship's seaworthiness documents.
- b. Prior to granting a Sailing Approval Letter, a harbormaster must ensure that the ship that is going to go on a voyage must fulfill several important elements for the implementation of the safety and security function of shipping.
- c. *Syahbandar* can postpone the departure of the ship after the Sailing Approval Letter is issued if it turns out the requirements
- d. seaworthiness, ship safety and weather conditions can jeopardize safety.
- e. If the delay in departure of the ship exceeds 24 (twenty-four) hours from the set departure time, then the captain or ship owner is required to submit a request for re-issuance of the Sailing Approval Letter to the *Syahbandar* attaching the reasons for the delayed departure.
- f. The Harbor Master can grant exemption from the Sailing Approval Letter to ships sailing within the port limits, ships undertaking sailing trials, ships aiming to provide rescue assistance and ships stopping at ports due to emergencies.
- g. The Harbor Expert has the position to repudiate the Cruising Endorsement Letter that has been given on the off chance that the boat doesn't cruise from the port more than 24 (24) hours from the set takeoff time limit, the boat upsets the smooth progression of boat traffic, and there is a composed request from the Region Court.

Syahbandar carries out supervisory duties through the enforcement and general enforcement of maritime law. For ships that meet the conditions and procedures required, *Syahbandar* gives approval for entry and exit (Clearance In-Out). Conversely, if the ship does not comply with legal provisions or is subject to sanctions, or undergoes a quarantine action process, the clearance is suspended. [5]

Article 3 of the Guideline of the Pastor of Transportation Number KM 01 of 2010 affirms that a cruising endorsement letter can be gotten by a boat that will cruise by presenting a composed application for a cruising license to the harbor ace by joining: a. Transport status articulation (Expert Cruising Statement); b. Freight reports and other proof of satisfaction of boat commitments.

Regulation Number 17 of 2008 concerning Transportation specifies records that should be possessed by a boat while cruising, namely:

- a. Ship Nationality Certificate (Article 164); a country can be given a Ship Nationality Certificate
- b. Measurement Certificate (Article 158), i.e.:
 - 1) Paragraph (1); Vessels that have been estimated and gotten estimation endorsements can be enrolled in Indonesia by the boat proprietor to the enlistment center and not set in stone by the Clergyman.

- 2) Paragraph (2); Vessels that can be enrolled in Indonesia are: (1) ships with a gross weight of basically GT Z (seven Gross Weight); (2) ships claimed by Indonesian residents or legitimate substances laid out under Indonesian regulation and domiciled in Indonesia; and, (3) ships possessed by Indonesian lawful elements which are organizations whose greater part capital is claimed by Indonesian residents.
 - 3) Paragraph (3); Vessel enlistment is completed by making an enrollment deed and kept in the Indonesian boat register.
 - 4) Paragraph (4); proof that the boat has been enrolled, to the proprietor the proprietor is given a boat enlistment deed gross which likewise works as confirmation of responsibility for transport that has been enlisted; e. Section (5); On ships that have been enlisted, an enrollment mark should be joined.
- c. Freight Ship Safety Construction Certificate;
 - d. Cargo Ship Equipment Safety Certificate;
 - e. Telecommunication Radio Certificate;
 - f. National Certificate of Prevention and Pollution on Ships;
 - g. Minimum Vessel Manning (Safe Manning);
 - h. Investment Letter;
 - i. PPKN Letter (Ship Operation Approval Letter);
 - j. Sailing Approval Letter (SPB).

Article 117 of Law Number 17 of 2008 describes the documents that must be owned when the ship is about to sail, namely: [6]

- a. Paragraph (1); Safety and security of water transportation, namely the condition of fulfilling the requirements of: a. Ship seaworthiness; and b. Navigation.
- b. Paragraph (2); Boat safety as alluded to in passage (1) letter a should be met by each boat as per its transportation region which incorporates: a. transport security; b. Anticipation of contamination from ships; c. transport group; d. Transport endlessly stacking lines; e. Transport Group Government assistance and traveler wellbeing; f. Boat's legitimate status; g. The executives of security and counteraction of contamination from boats; and h. Transport security the executives.
- c. Paragraph (3); Fulfillment of every requirement for ship seaworthiness as referred to in paragraph (1) is proven by certificates and ship documents.

Article 118 of Regulation Number 17 of 2008 concerning Delivery depicts Route as alluded to in Article 117 section (1) letter b, in particular comprising of: [7]

- a. Shipping-navigation aids;
- b. Telecommunication-shipping;
- c. hydrography and meteorology;
- d. grooves and crossings;
- e. dredging and reclamation;
- f. scouting;
- g. ship frame handling; And
- h. solvency and underwater work.

Article 2 passage (2) and section (3) of the Guideline of the Clergyman of Transportation of the Republic of Indonesia Number PM 82 of 2014 concerning Strategies for Requesting Cruising Endorsement Letters affirms, specifically: [8]

- a. Paragraph (2); to get the Cruising Endorsement Letter as alluded to in passage (1), each boat should meet the boat's security prerequisites and different commitments.
- b. Paragraph (3); For fishing boats, the Cruising Endorsement Letter as alluded to in passage (1) is given by the Syahbandar at the fishing port.

Article 3 of the Guideline of the Priest of Transportation of the Republic of Indonesia Number PM 82 of 2014 concerning Methodology for Requesting Cruising Endorsement Letters making sense of that the commitments alluded to in Article 2 are prohibited for: a. Warship; as well as b. State ships/government ships for however long they are not utilized for business exercises.

The application for the issuance of a Cruising Endorsement Letter is specified by the Guideline of the Pastor of Transportation of the Republic of Indonesia Number PM 82 of 2014 concerning Techniques for Requesting Cruising Endorsement Letters, specifically:

- a. Article 8 section (1); To get a Cruising Endorsement Letter, the proprietor or administrator of the boat presents a composed application to the Syahbandar involving the Example 1 configuration in the Supplement which is a basic piece of this Guideline of the Priest of Transportation. (2) The application as alluded to in section (1) is joined by: a. Skipper's assertion involving the organization Model 2 in the Addendum which is a vital piece of this Guideline of the Priest of Transportation; b. proof of the satisfaction of other boats' commitments following their assignment by involving the Model 3 organization in the Addendum which is a basic piece of this Guideline of the Pastor of Transportation; and c. for fishing boats should be furnished with a letter of functional value from the fishery manager.
- b. Article 9 section (1); In view of the application as alluded to in Article 8, the Harbor Expert checks the fulfillment and legitimacy of the boat's letters and reports involving the Model 4 arrangement in the Supplement which is an essential piece of this Guideline of the Pastor of Transportation. Section (2); On the off chance that the Harbor Expert gets a report as well as realizes that the boat that is going to cruise doesn't meet the prerequisites for security and boat security, the Harbor Expert has the position to investigate the boat.

Rule of the Minister of Transportation of the Republic of Indonesia Number Km.1 of 2010 concerning Techniques for Giving a Cruising Underwriting Letter (Port Opportunity), made sense of, prior to getting a Cruising Endorsement Letter, the boat proprietor or administrator presents a composed application to the Harbor Expert. A letter expressing the status of the boat to withdraw from the commander is likewise included. Also, it is compulsory to join proof, including; [9]

- 1) Proof of installment for port administrations, confirmation of installment for route administrations,
- 2) Proof of installment of receipt of delivery cash,
- 3) Customs and extract leeway,
- 4) immigration leeway,
- 5) Health quarantine leeway.

The PSPB applicant then submits an application to the *Syahbandar*, by submitting all documents and ship certificates to the *Syahbandar*. The harbormaster then conducted a research process on documents and letters, followed by administrative checks. If during the physical inspection there is a discrepancy with the applicable provisions (eligibility), the Sailing Approval Letter will be postponed and the results of the inspection will be notified to the

applicant. The Port Clearance Letter is valid for 24 (twenty-four) hours from the set departure time and can only be used for 1 (one) voyage. [10]

Government Regulation Number 47 of 1957 concerning Shipping Permits describes the Shipping Permits as follows:

- a. Section 2
 - 1) Paragraph (1); Every shipping company operating inshore shipping with ships flying the flag of the Republic of Indonesia and measuring 100 BRT and above must have a shipping license issued by the Minister of Shipping.
 - 2) Paragraph (2); Commercial ships sailing with foreign flags conducting coastal voyages may be granted a dispensation by the Minister of Shipping after hearing the opinion of the Minister of Finance with the provisions as referred to in Article 3 paragraph (3) "Indonesian Shipping Law" "*Indische Scheepvaartwet 1936*", *Staatsblad* 1936 No. 700).
 - 3) Paragraph (3); The license referred to in paragraph (1) and the dispensation referred to in paragraph (2) are determined by taking into account the considerations of the Shipping Licensing Committee.
 - 4) Paragraph (4); Further provisions regarding the composition, method of formation, duties and work guidelines of the Shipping Licensing Committee are stipulated by the Minister of Shipping.
- b. Section 3
 - 1) Paragraph (1); Permits referred to in Article 2 paragraph (1) are only given to shipping companies that are in the form of Indonesian legal entities and domiciled in Indonesia upon their application.
 - 2) Paragraph (2); Further provisions regarding the requirements that must be met by legal entities as referred to in paragraph (1) shall be stipulated by the Minister of Shipping.
- c. Section 4
 - 1) Paragraph (1); Shipping permits consist of, a. ordinary license for certain routes or routes stipulated by the Minister of Shipping for a certain time, b. extraordinary license for shipping that is not referred to in the provisions of sub a.
 - 2) Paragraph (2); Shipping companies assigned to carry out basic transportation throughout Indonesian waters are granted permission to organize routes according to their duties.
 - 3) Paragraph (3); The shipping permit referred to in paragraph (1) is given with reasons and states: 1) The name and domicile of the relevant shipping company, 2) The date of commencement and if necessary the length of the shipping permit, 3) The route to be sailed taking into account the provisions in Article 5 paragraph (1), 4) ships and the total capacity of the ships, 5) Ship Travel Regulations, 6) Fares for the transportation of goods and/or passengers, 7) Obligation to transport as referred to in Article 5 and Article 6.
 - 4) Paragraph (4); Further provisions regarding the form and content, method and time limit for determining and how to announce the license as referred to in paragraph (1) shall be determined by the Minister of Shipping.
- d. Section 7
 - 1) Paragraph (1); Applications to obtain, renew, change and/or add to licenses shall be submitted in writing to the Minister of Shipping no later than 90 days from the date this regulation comes into effect.

- 2) Paragraph (2); Further provisions regarding the form and method of filing and announcing an application and how to file an objection are determined by the Minister of Shipping.
- e. Article 8 The application as referred to in Article 7 paragraph (1) can be rejected at any time:
- 1) Against this application, objections related to the regional economy are submitted,
 - 2) The applicant is deemed unable to fulfill the terms and conditions as referred to in Article 4 paragraph (3),
 - 3) The applicant has been convicted of shipping crimes as referred to in Chapter XXIX, Book II of the Indonesian Criminal Code or for crimes punishable by law, specifically regarding shipping,
 - 4) The Petitioner is not willing to implement the provisions referred to in Article 5,
 - 5) The shipping route requested has been sufficiently served by other shipping companies,
 - 6) The applicant has been given a shipping permit which was later revoked due to the matters referred to in Article 9 paragraph (1).
- f. Section 9
- 1) Paragraph (1); The shipping license as referred to in Article 4 paragraph (1) can be revoked by the Minister of Shipping; 1) If the shipping operation in question has not started on the commencement date as referred to in Article 4 paragraph (3) sub b and the holder of said shipping license has been given another opportunity to start said operation within three months after the commencement date, 2) If the owner or holder of a shipping license is punished for a crime as referred to in Chapter XXIX, Book II, the Indonesian Criminal Code or for a crime punishable by law, specifically regarding shipping, 3) If the shipping company in question is organized does not comply with the terms and conditions of the license as referred to in Article 4 paragraph (3), even though he has been warned to fulfill the terms and conditions, 4) If the shipping company in question is in a condition that can no longer be held liable due to no longer sufficient capital and or company equipment, 5) If the shipping license is obtained by coercion, violence, misguidance, fraud or bribery, 6) At the request of the shipping license holder himself.
 - 2) Paragraph (2): Further stipulations regarding the form, method of delivery, method of the announcement and other matters regarding the decision letter stipulating the revocation of a shipping license shall be stipulated by the Minister of Shipping.

3.2 Criminal Responsibility for Ships Sailing Without a Sailing Permit

Regulation Number 17 of 2008 concerning Delivery (UUP) was made to oblige all interests connected with ocean transportation, and in light of the clarification of the UUP it is planned that the activity of delivery as a framework can give the best conceivable advantage to all individuals, country, and state, encouraging and creating sea soul by focusing on open interest and ecological manageability, coordination among focal and territorial as well as state guard and security.

In the UUP there are a few unlawful demonstrations that give common approvals or managerial approvals as well as criminal approvals, so it tends to be expected that as per the

lawmakers, just lawbreaker approvals can successfully safeguard the planned fundamental social qualities. Despite the fact that it makes criminal arrangements in it, the actual UUP can be ordered as regulatory regulation. UUP which contains acts that are dependent upon criminal assents are activities that abuse arrangements that are not adequately focused exclusively by utilizing authoritative authorizations or common approvals. Regulatory assents or common approvals are not sufficiently viable to make a difference and keep others from committing a similar demonstration.

The crime committed by the ship captain because he did not have an SPB was because the captain mostly smuggled illegal goods, and stowaways, or realized that his ship was not seaworthy, so the ship captain did not take care of the SPB. Criminal arrangements in the field of delivery give certifications to the protected and agreeable execution of ocean transportation, in this manner adding to the development of ocean transportation which thusly upholds financial development so it doesn't turn into a snag to the execution of ocean transportation or delivery to serve the versatility of individuals, labor and products associating between island monetary exercises and worldwide relations. [11]

By and by, the effect of cruising infringement without a Cruising Endorsement Letter incorporates the detainment of boats, and suspension of licenses or declarations, so they can't work inside a specific measure of time. This is likewise expressed in the UUP, in which the skipper who sails without having a Cruising Endorsement Letter gave by the *Syahbandar* has disregarded Article 323 which can be rebuffed with detainment for a limit of 5 (five) years and a fine of up to Rp. 600,000,000.00.

Cruising ships don't have a Cruising Endorsement Letter, the boat is incorporated as a boat that isn't stable. Article 302 section (1) UUP makes sense of that the skipper who cruises the boat, while the individual concerned realizes that the boat isn't secure as alluded to in Article 117 passage (2) can be rebuffed with detainment for a limit of 3 (three) years or a fine of up to Rp. 400,000,000.

The seaworthiness of a ship is the responsibility of the ship owner or operator. The condition of a seaworthy ship is the basic capital of the owner or operator of the ship to rent cargo spaces for transportation or to rent them out for this purpose. The skipper as the leader of the ship, as well as the representative of the owner or operator of the ship, also has a big obligation and responsibility for the seaworthiness of his ship. But sometimes the owner or operator of the ship pays little attention to the safety factor of the ship. Owners or operators who think only for a business, or seek profit solely without regard to the safety of their ship, crew, passengers, or cargo, can pose a danger to the ship.

A portion of the boat proprietors or administrators constrained the skipper to conform to every one of the desires or even the boat proprietor's requests, despite the fact that the request disregarded the arrangements of the regulations and guidelines. This is made sense of in the arrangements of Article 311 UUP clearing up that any individual who impedes the skipper's opportunity for do his commitments observing the arrangements of the regulations and guidelines as alluded to in Article 138 section (4) will be dependent upon detainment for a limit of 2 (two) years and a fine. 300,000,000.00 (300,000,000 rupiahs) probably.

From the elucidation of Article 311 it is clear that as an owner or operator, it is not justified to threaten, pressure, or intimidate a skipper in carrying out his obligations, namely to keep his ship seaworthy and according to safety and security standards for sailing. For this reason, the captain must also ensure that the ship meets all seaworthiness requirements and reports this to the *Syahbandar*. If it is known that the ship is not seaworthy according to what is required in Article 117 paragraph (2) UUP, then the Master has the right to refuse to sail the ship. Article 138 paragraph (4) UUP provides guarantees for the captain's decision.

The criminal threat is not only for the captain, the ship owner also has the potential to become a prisoner because of his power as the owner of the ship, the owner or company is given responsibility and threats of sanctions regarding safety and security in Article 40 paragraphs (1) and (2) of the UUP.

- (1) Transportation organizations in the waters are answerable for the wellbeing and security of travelers and additionally the products they transport;
- (2) Water transportation organization is answerable for the freight of the boat as per the sort and sum expressed in the freight record and additionally the arrangement or agreement of transportation that has been settled upon.

Not just that, Article 305 UUP makes sense of that anybody who doesn't keep up with his boat so he doesn't conform to the prerequisites for transport wellbeing as alluded to in Article 130 passage (1), will be rebuffed with detainment for a limit of 6 (six) months or a fine of up to Rp. 100 000,000.00 (100,000,000 rupiah). Aside from the UUP, the arrangements in Article 58 of Unofficial law Number 51 of 2002 concerning Delivery, make sense of that:

- (1) The proprietor, administrator, expert or commander of the boat is obliged to keep up with and care for the boat so that during activity the boat actually satisfies the prerequisites for transport security and is as per the information contained in the boat declaration;
- (2) Each boat should be sidelined by not entirely set in stone for the execution of upkeep as alluded to in passage (1);
- (3) Further arrangements viewing upkeep and support as alluded to in section (1) and passage (2) are managed by a Pastoral Pronouncement.

The responsibility given to the ship owner is in terms of maintaining the ship which is mandated by law in Article 130 UUP which reads:

- (1) Every ship that obtains the certificate as referred to in Article 126 paragraph (1) must be maintained so that it still meets the requirements for ship safety;
- (2) Maintenance of the boat alluded to in section (1) is completed occasionally and every once in a while.
- (3) Under certain conditions the Clergyman might concede a halfway exception from the specified circumstances, while as yet focusing on the security of the boat.

4. Conclusion

The captain of a ship that sails his ship without a Sailing Approval Letter is a violation of criminal law. Criminal responsibility for the skipper, in this case, is following statutory provisions, that is, he can be punished with imprisonment and a fine following the criminal provisions in Article 323 of Law no. 17 of 2008 concerning Shipping. The seaworthiness of a ship is the responsibility of the ship owner or operator. The condition of a seaworthy ship is the basic capital of the owner or operator of the ship to rent cargo spaces for transportation or to rent them out for this purpose. Not only criminal threats for the captain but the owner or operator of the ship who does not maintain the seaworthiness of his ship, if he orders the ship to continue sailing even though it does not have an SPB, based on Article 305 UUP can be subject to criminal sanctions and fines.

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