



Wang Jing & GH Law Firm Handled A Case of Successful Repatriation of a Sick Crewmember amidst COVID-19 Pandemic

June, 2020

Recently Wang Jing & GH Law Firm was retained by the owner of a foreign flagged ship and her P&I Club to deal with legal issues concerning the disembarkation and repatriation of a sick crewmember of foreign nationality amidst COVID-19 pandemic. Thanks to the relentless efforts of Wang Jing & GH Law Firm, finally the competent Chinese authorities agreed to arrange the sick sailor to be treated in a hospital ashore and allow him to return home for further treatment. We set out more details on this matter as follows for your information.



Background

On 23rd April 2020, while the ship involved in this matter berthed at a port in Guangzhou, China, a crewmember was suspected of suffering from a brief psychotic disorder after examination and he was supposed to get medical treatment ashore as soon as possible. After communicating with the competent Chinese authorities for quite some time, the Shipowner found out that there are obstacles to get urgent medical assistance for the sick crew during the epidemic prevention and control period. Therefore, they instructed Wang Jing & GH Law Firm to provide assistance to resolve issues regarding the disembarkation and repatriation of the crewmember.



After we communicated and coordinated with the relevant parties, including the MSA, Department of Foreign Affairs, Department of Health, the General Consulate of the crewmember's home state, shipping agent, etc., on 8th May 2020, the Chinese authorities agreed to provide the crewmember with two treatment recommendations, i.e. either that medical staff attend on board for treating him or that he disembarks and receives medical treatment in a hospital ashore. Yet there was no mention of

whether to allow the crewmember to return home from ashore after the retreatment, which the Shipowner and the crewmember himself most desired. And by then the sick sailor was still lying on board the ship without being properly treated by doctors.

To best protect the crewmember's rights and interests, as per the clients' instruction, on 12th May 2020 we prepared and sent a lawyer's letter to the Chinese authorities, in which we analyzed relevant issues in accordance with the applicable laws and regulations and strongly suggested that rescue measures should be taken towards the sick crewmember. In the meantime, the Consulate of the sailor's home state, shipping agent and correspondent also did their utmost to communicate and cooperate with Chinese authorities.

Finally, on 15th May 2020, the Chinese authorities accepted our suggestions to arrange medical treatment at a hospital ashore for the crewmember and subsequently allow him to return home for further treatment.



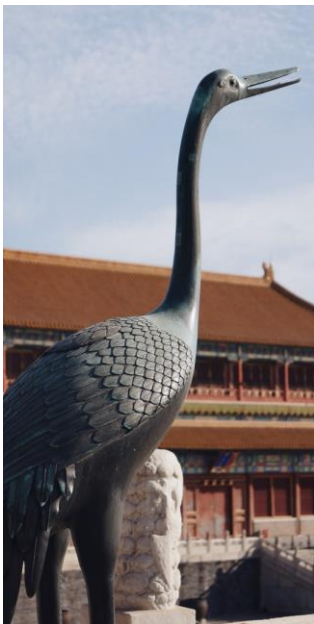


Restriction on the disembarkation of injured or sick crew in China

On 23rd March 2020, Chinese MSA issued a *Guidance on the Prevention and Control of COVID-19 on board (V2.0)* (hereinafter referred to as the “*Guidance(V2.0)*”), according to which the disembarkation of crewmembers in Chinese ports is restricted. *Guidance(V2.0)* states that “(1) ships on international voyage shall change the crew at domestic ports if possible because of the outbreak of the epidemic; (2) it is necessary to take measures such as personal protective equipment wearing and temperature monitoring. The change of crew should be suspended immediately and be dealt with properly under the rules about prevention and control of the epidemic.” Also, the Ministry of Foreign Affairs and the State Administration of Immigration have announced that foreigners with valid visas or resident permits were temporarily forbidden to enter into China from 28th March 2020 onward. In this case, the disembarkation of injured or sick crew becomes much more difficult.

Latest Update on the disembarkation of injured or sick crew in China

For the purpose of effectively carrying out emergency rescue and disposal of crew suffering from injury or illness during epidemic prevention and control, the *Guidelines on Emergency Treatment for Seafarers Suffering from Injury or Illness during the Period of Epidemic Prevention and Control (JiaoHai Ming Dian 2020 No.127)* (hereinafter referred to as the “*Guidelines*”) was issued jointly by the Ministry of Transport, Ministry of Foreign Affairs, State Health Commission, General Administration of Customs and State Administration of Immigration on 12th April 2020. The *Guidelines* further clarify how to deal with crew’s injuries and illness at ports in China.



We cited below a few provisions of the *Guidelines*: “When a ship requests for help due to crew suffering from injuries or illness in Chinese ports, no matter whether or not they belong to the Four Categories of Personnel, treatment measures shall be made available to them, and when necessary, the crew shall be transferred to medical institutions ashore for treatment so that timely treatment can be provided. After the ship requests for rescue, the Maritime Search and Rescue Center under the jurisdiction shall collect information of the crew to be rescued and the health conditions of all crew onboard.”

In this case, after the Shipowner requested for help, the sick crewmember is supposed to be rescued in time under the *Guidelines*.

Maritime Labour Convention 2006

B4.1.3 of the *Maritime Labour Convention 2006* also stipulates that Member States shall take measures to ensure that crew have access when in port to gaining treatments and take measures to facilitate the treatment of crew suffering from diseases. We cite below relevant clauses for your information:

The member state shall:

2. take measures to ensure that seafarers have access when in port to (1) outpatient treatment for sickness and injury; (2) hospitalization when necessary; and.....
3. take measures to facilitate the treatment of seafarers suffering from disease. In particular, seafarers should be promptly admitted to clinics and hospitals ashore, without difficulty and irrespective of nationality or religious belief, and, whenever possible, arrangements should be made to ensure, when necessary, the continuation of treatment to supplement the medical facilities available to them.



Besides, if there is a continuation of treatment for a crew, such continuation of treatment shall be arranged in accordance with the illness status of the crew, and shall not be subject to compulsory time limits or conditions.”

For your guidance, Four Categories of Personnel refer to the COVID-19 confirmed patients, suspected COVID-19 patients, patients who cannot be excluded from COVID-19 infections, and close contacts of COVID-19 confirmed patients.



In conclusion, it is necessary to keep a close eye on the latest developments in the applicable laws and regulations and communicate closely with the competent authorities in order to handle the disembarkation and repatriation of injured or sick crew properly. Recently, there have been new developments in the epidemic prevention and control in Beijing. We expect that China will continue to maintain strict epidemic prevention and control measures in view of the latest development. Club and Members are kindly suggested to keep an eye on this.

A team led by Mr. Wang Jing, which has rich experience in foreign-related legal issues, have joined and started a strategy reconstruction with Grand & Holder Law Firm. The name of the new firm is Wang Jing & GH Law Firm, which is a full-service firm with more than 70 experienced practicing lawyers. Wang Jing and GH Law Firm now covers such practice areas as commercial litigation and dispute resolution, admiralty and maritime, cross-border investment and M&A, international trade, real estate development and construction, corporate governance, banking and finance, urban renewal, TMT, commercial crimes, intellectual property and taxation.

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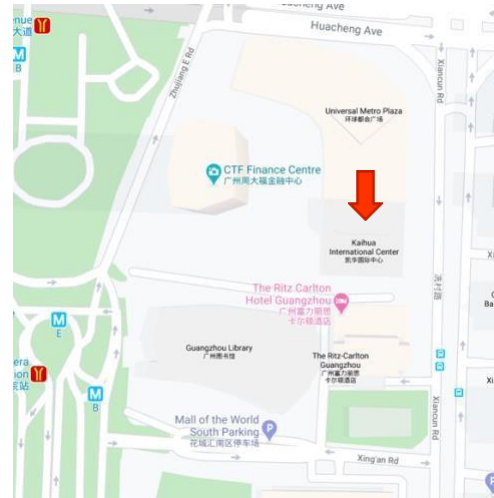


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Adhering to values as “Professional & Efficient”, “Teamwork” and “Win-win Cooperation” and to the service philosophy “Abiding by commitments, treating people honestly”, Wang Jing & GH provides comprehensive and high-quality legal services to clients.

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