

§ 5. — *Du congé*

*Article 21. — Congé.* — Le congé est l'acte délivré par le Service de la navigation pour établir que le bateau est toujours en droit de battre pavillon tunisien. Il affirme l'identité du bateau auquel il est délivré avec celui qui fait l'objet de l'acte de nationalité.

## 22. Germany, Federal Republic of

(a) ORDER OF 7 JUNE 1950<sup>1</sup> RESPECTING THE USE OF THE GERMAN FLAG.

*Article II.* . . . Federal official buildings and public service vessels may fly the Federal flag or the Federal service flag.

(b) ACT OF 8 FEBRUARY 1951<sup>2</sup> RESPECTING THE RIGHT TO USE THE FLAG ON SEA-GOING SHIPS.

### PART I. USE OF FLAGS BY SEA-GOING SHIPS

#### 1. *Right to fly the Federal flag*

*Article 1.* (1) The Federal flag shall be carried by all merchant ships and other ships intended for sea traffic (sea-going ships) which are owned by German nationals domiciled in the territory to which the Constitution applies.

(2) The expression "German nationals" shall be construed as including commercial partnerships, limited partnerships and bodies corporate which have their seat of business in the said territory, if:

(a) In the case of a commercial partnership or limited partnership, the majority both of the partners who are personally liable and of the partners who are entitled to represent the partnership are German nationals and, in addition, the German partners have a voting majority in pursuance of the articles of association;

(b) In the case of a body corporate, German nationals constitute a majority of the board of directors or of the board of management.

*Article 2.* (1) The Federal flag may be carried by any sea-going ship which is owned by a German national or by German nationals not having his or their domicile in the territory to which the Constitution applies.

(2) The foregoing provision shall also apply to any sea-going ship which is owned by a shipowning partnership (*Partenreederei*) or by a community of heirs if:

(a) In the case of a shipowning partnership, the majority of the partnership shares is vested in German nationals and the managing owners (*Korrespondentreeder*) are German nationals having their domicile or seat of business in the territory to which the Constitution applies;

(b) In the case of a community of heirs, the interest vested in German nationals exceeds one-half of the estate and all the persons authorized to

<sup>1</sup> *Bundesgesetzblatt*, 14 June 1950, No. 24, p. 205. Translation by the Secretariat of the United Nations.

<sup>2</sup> *Flaggenrechtsgesetz*, *Bundesgesetzblatt*, 9 February 1951, No. 6, p. 79. Translation by the Secretariat of the United Nations.

represent the said community, are German nationals having their domicile or seat of business in the territory to which the Constitution applies.

### 2. Proof of the right to carry the Federal flag

*Article 3.* (1) The ship's certificate (*Schiffszertifikat*) shall be deemed to be proof of the right to use the Federal flag (articles 1 and 2). The flag shall not be used before the certificate has been issued.

(2) The ship's certificate or an extract therefrom attested by the shipping registry court shall be carried by the ship throughout each voyage.

(3) If a sea-going ship while abroad becomes entitled to use the Federal flag, a flag certificate (*Flaggenzeugnis*) instead of the ship's certificate may be issued. The flag certificate, shall be valid for one year only from the date of its issue; beyond that period it shall be valid only for the duration of a voyage which is prolonged by act of God. The Federal Government shall make regulations governing the issue and use of the flag certificate.

*Article 4.* (1) A sea-going ship which is the property of and is engaged in public service in the Federation or one of its constituent *Länder*, or which is owned and employed in the public service by a statutory corporation or institution having its seat of business in the territory to which the Constitution applies, shall prove its identity by a flag attestation (*Flaggenbescheinigung*).

*Article 5.* A sea-going ship of gross capacity not exceeding 50 cubic metres shall not be required to produce evidence of the right to use the Federal flag unless it is a ship to which article 2 applies.

### 3. Other national flags not to be used: exceptions

*Article 6.* (1) A sea-going ship which is required to use the Federal flag shall not fly any other flag as its national flag. This provision shall apply also to a sea-going ship which is allowed to use the Federal flag under article 2 and for which a ship's certificate has been issued under article 3 (1) or a flag certificate under article 3 (3).

(2) Nothing herein contained shall affect the provisions relating to the use of service flags instead of or with the Federal flag by sea-going ships in the public service.

*Article 7.* (1) If a sea-going ship is chartered for a period of not less than one year by a charterer (*Ausrüster*) who is not a German national or whose domicile or seat of business is not situated in the territory to which the Constitution applies, to be operated by him in his own name, then the Federal Minister of Transport may on an application by the owner permit the ship for a specified period not exceeding two years to use instead of the Federal flag some other national flag the use of which is allowed by the foreign law applicable.

(2) The aforesaid permission shall be withdrawn on application or if the conditions under which it was given cease to exist. The cessation of such conditions shall be notified forthwith to the Federal Minister of Transport by the beneficial owner and, if the ship is owned by a shipowning partnership, also by the managing owner.

(3) Where a ship's certificate or a flag certificate has been issued for a sea-going ship, the aforesaid permission or its withdrawal shall not have effect until the relevant mention has been made or cancelled, as the case may be, in the ship's certificate or flag certificate.

(4) The right to use the Federal flag shall not be exercised while the aforesaid permission is in effect.

#### 5. Authorization to use Federal flag

*Article 10.* If a sea-going ship which has been built in the territory to which the Constitution applies is not either required or authorized to use the Federal flag under articles 1 to 5 above, then the Federal Minister of Transport may grant authority to use that flag for the occasion of that ship's first voyage to another port.

*Article 11.* (1) If a sea-going ship which does not carry the Federal flag under articles 1 to 10 is chartered by a charterer, then the Federal Minister of Transport may authorize the said charterer to use the Federal flag for a specified period (which must not in any case exceed two years) if:

- (a) The charterer is one of the class of persons mentioned in article 1;
- (b) The ship is chartered, to be operated in the charterer's own name, for a period of not less than one year;
- (c) The ship is manned by a master and officers in accordance with Federal law;
- (d) The owner agrees to the change of flag;
- (e) The use of the Federal flag is not inconsistent with foreign law.

(2) The authorization shall be withdrawn on application or if the conditions under which it was granted cease to exist. The cessation of such conditions shall be notified forthwith to the Federal Minister of Transport by the charterer.

*Article 12.* (1) In the cases to which article 10 or article 11 applies, a flag pass (*Flaggenschein*), which shall indicate the principal distinguishing features of the ship, the name of the owner or, in a case to which article 11 applies, the name of the charterer and the term of the charter-party, shall be deemed to be sufficient proof of the authorisation to use the Federal flag.

(2) A sea-going ship for which a flag pass has been issued under article 11 shall be entered, for so long as the authority to use the Federal flag is valid, in the register of chartered ships.

(3) The Federal Minister of Transport shall make regulations governing the keeping of the register and the delivery and withdrawal of the flag passes.

*Article 13.* The provisions of article 3, second sentence of paragraph (1), and paragraph (2), respecting the duty to produce proof, and of article 6, which prohibits the use of other national flags, . . . shall apply as appropriate to sea-going ships in respect of which authorisation to use the Federal flag has been granted under article 10 or article 11. The name of the home port designated by the owner shall also be displayed on the stern.

#### (c) EXECUTIVE ORDER OF 23 FEBRUARY 1951<sup>1</sup> UNDER THE ACT RESPECTING THE RIGHT TO USE THE FLAG.

*Article 1.* A flag certificate may be issued instead of a ship's certificate to a sea-going ship which is authorised while in foreign waters to use the Federal flag.

<sup>1</sup> First Order, made under article 3 (3) of the Act of 8 February 1951 (*supra*). *Bundesgesetzblatt*, 6 March 1951, No. 3, p. 19. Translation by the Secretariat of the United Nations.

*Article 2.* (1) A flag certificate shall be issued on the application of the owner.

(2) If the applicant is one of the class of persons on whose sea-going ships the use of the Federal flag is prescribed by article 1 of the Act, then the flag certificate shall be issued by the consul competent for the territory in which the ship is physically present when it becomes entitled to the said flag, or by the shipping registry court competent to register the ship under article 4 of the Shipping Registration Order, 19 December 1940.<sup>1</sup>

(3) If the applicant is one of the class of persons on whose sea-going ships the Federal flag may be used pursuant to article 2 of the Act, then the flag certificate shall be issued by the shipping registry court competent to register the ship. In this case the application must be made (if made at all) in conjunction with the application for the registration of the ship in the sea-going ships register.

*Article 4.* (1) A flag certificate shall not be issued unless the seaworthiness of the ship is attested by a navigation permit delivered by the Mariners' Accident Insurance Institution (*See-Berufsgenossenschaft*) of Hamburg. The said Institution may also deliver the permit if it is satisfied of the ship's seaworthiness by an examination made by examiners of a recognized firm of surveyors.

(2) If application is made to a consulate for the issue of a flag certificate under article 2 (2), then, in case of urgency, a satisfactory report by a recognized firm of surveyors may be accepted as evidence of seaworthiness. In any such case, the conditions which the report considers necessary must be fulfilled before the flag certificate is issued and its issue shall be declared to be subject to the discharge of the obligations and to the observance of the restrictions as to time and place imposed by the said report.

(3) A flag certificate shall not be issued to a ship equipped to carry more than twelve passengers until the safety certificate prescribed by article 8 of the Safety Precautions and Certificates (Passenger Ships) Order, 25 December 1932,<sup>2</sup> has been given.

*Article 5.* Flag certificates shall be issued for a specified period not exceeding one year from the date of issue, or for a single voyage of the ship to a port in Federal territory.

*Article 9.* The owner shall forthwith return the flag certificate for cancellation to the shipping registry court competent to register the ship if—

1. A ship's certificate is issued,
2. The ship ceases to be entitled to the Federal flag, or
3. The application for registration of the ship in the sea-going ships register is withdrawn.

<sup>1</sup> *Reichsgesetzblatt* I, p. 1591.

<sup>2</sup> *Reichsgesetzblatt* II, p. 243.

(d) SECOND EXECUTIVE ORDER OF 31 MARCH 1951<sup>1</sup> UNDER THE ACT RESPECTING THE RIGHT TO USE THE FLAG.

*Article 1.* Application for authorisation to use the Federal flag shall be made—

1. In the case of a sea-going ship built in the territory to which the Constitution applies (article 10 of the Act), by the owner of the shipyard or of the ship;

2. In the case of a sea-going ship chartered by a German charterer (article 11 of the Act), by the said charterer.

*Article 6.* (1) An applicant who is authorised to use the Federal flag shall receive a flag pass as documentary evidence. The shipping authority shall make out the flag pass according to the model annexed hereto, shall allot an identifying signal to the ship, and shall, in a case to which article 1, item 2, applies, enter the ship in the register of chartered ships.

*Article 7.* (1) In a case to which article 1, item 1, applies the period of validity of the flag pass shall be the duration of the ship's first voyage to another port, and, in a case to which article 1, item 2, applies the period of validity of the authority to use the Federal flag.

(2) If the period of validity of the authority to use the Federal flag is subsequently extended, on application, the extension may be endorsed on the flag pass. In this case a new flag pass shall not be necessary.

*Article 9.* (3) If the ship sinks and must be regarded as a total loss, or if it cannot be repaired, the charterer must notify the shipping authority promptly.

(e) ADMINISTRATIVE ORDER RESPECTING FLAG ATTESTATIONS (*Flaggenbescheinigungen*) FOR SEA-GOING SHIPS IN THE PUBLIC SERVICE, 27 APRIL 1951.<sup>2</sup>

*Article 1.* (1) The body competent to deliver the flag attestation in respect of a sea-going ship which is the property of and is engaged in the public service in the Federation, or which is owned and employed in the public service by a Federal Departmental corporation or institution in public law, shall be the competent local subsidiary authority of the Federal Waterways and Shipping Department.

### 23. Greece

(a) DECREE OF 14 NOVEMBER 1836 CONCERNING MERCHANT SHIPPING.<sup>3</sup>

*Article 1.* All Greek merchant ships shall use the national flag.

*Article 2.* Only the following ships shall be recognized as Greek merchant ships:

<sup>1</sup> Second Order, made under article 12 (3) of the Act of 8 February 1951 (*supra*) *Bundesgesetzblatt* II, 11 April 1951, No. 6, p. 65. Translation by the Secretariat of the United Nations.

<sup>2</sup> *Bundesanzeiger*, 2 May 1951, No. 83, p. 3. Translation by the Secretariat of the United Nations.

<sup>3</sup> Text of Decree provided by the Permanent Delegation of Greece. Translation by the Secretariat of the United Nations.