

EXTRACTS OF THE JUDGMENT OF THE DISTRICT COURT OF AMSTERDAM

Wijsmuller Salvage B.V. v. ADM Naval Services

The Peruvian warship Almirante Grau, a cruiser, got into difficulties during sea trials which were being conducted on the North Sea as part of a refit by ADM Naval Services. Wijsmuller Salvage B.V. successfully assisted the vessel. As Wijsmuller feared that Peru would arrange for the ship to sail away, it applied to Amsterdam District Court for an interlocutory injunction attaching the cruiser in order to secure its rights and obtain payment of the salvage money.

The District Court held:

[...] ADM had put forward as its defence, inter alia, that leave should not be given because Wijsmuller wishes to attach a vessel belonging to a foreign power which is intended for use in the public service. [...]

Wijsmuller has tried in vain to challenge this by arguing that the ship was not being used in the public service during the present trials. Leaving aside the point that the decisive criterion is the status of the ship at the time of the attachment (which may differ from the status at the time when the claim for which redress is sought arose), Wijsmuller's argument fails because in view of the background described at 1, the Almirante Grau (a warship delivered by Peru to Dutch companies for refitting (i.e., "the work") not only has to spend a long time in dock but must also undergo sea trials, during which it sails under Peruvian command and is manned in part by Peruvian crew) should also be regarded as a ship intended for use in the public service (i.e., the Peruvian public service) even during the execution of the work.. [...]