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# ABANDONED SEAFARERS: THE CASE OF *OBO BASAK*

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## INTRODUCTION

The IMO and ILO have recognised that seafarer abandonment is a serious problem, and given the global nature of the industry seafarers need special protection. The Legal Committee of IMO, at its eighty-third session (October 2001) approved draft resolutions and related guidelines on the provision of financial security for abandoned seafarers. The guidelines were subsequently adopted by the IMO Assembly, at its twenty-second session in November 2001. The resolutions and guidelines were also adopted by the Governing Body of the ILO at its 282<sup>nd</sup> session (16 November 2001). Both resolutions and guidelines took effect on 1 January 2002.

Despite the IMO and ILO resolutions the problem of abandonment continues. For example, within the first six months 2002 the ITF recorded 89 cases of abandonment involving 1,780 crew members (ILO 2003). In the reported cases there was no suitable financial security in place to deal with the abandonment cases. The only assistance to seafarers came from seafarers' welfare organisations.

This paper provides a detailed case study of abandoned seafarers and focuses on the 1973-built, 103,235 dwt, Turkish flagged ore-bulk-oil carrier *Obo Basak* which was abandoned in Dunkirk between July 1997 and March 1998. It should be noted even 7 years after this abandonment case the seafarers involved are still engaged in a legal case for compensation. There are a growing number of studies demonstrating the extent of seafarer abandonment (Couper et al 1998; ITF 1999, Alderton et al 2004) and the experience of the *Obo Basak* crew is not untypical.

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The paper is based on a series of in-depth interviews with 29 seafarers and their families. Some seafarers and their families were interviewed at various times over a 4-year period (1998 – 2002). Four group interviews were conducted with seafarers and their families. Further interviews were conducted with managers of Marti Shipping (the owners of *Obo Basak*), lawyers involved in the case, the ship's agent, and Dunkirk Port Authority employees. In addition 6 video tapes filmed by the bosun of the *Obo Basak* during the abandonment were analysed. The International Transport Worker Federation (ITF) and Mission to Seafarers files on the *Obo Basak* case in their London offices were also examined.

### **The story of the *Obo Basak*: Signs that things were going wrong!**

*Well before the Obo Basak's arrest in Dunkirk and the subsequent abandonment of its crew it became apparent to many aboard that all was not well. However while some seafarers chose to leave the vessel others did not. Some seafarers, who had been working for Marti for a long time and thought everything would settle soon, remained onboard. These seafarers decided to hang on out of loyalty. Others also remained onboard due to a lack of alternative options. Some were cadets and had no chance to leave the ship. It was important for cadets to complete their sea time for the successful completion of their studies and they were compelled by the captain to stay:*

Marti shipping was chartered for 3 voyages by Sollac to deliver ore from Mauritania to their Dunkirk steel plant. For the first voyage *Obo Basak* left the Black Sea port of Ereğli on 7 February 1997 for Mauritania. In Ereğli, just before departure, 4 new deck cadets joined the ship. One of them was Haluk. It was Haluk's second cadetship at Marti. He tried very hard to get his cadetship on Marti's ships as it was a very prestigious company to work for. However, when he joined the ship he found the crew were already complaining that there had been some delays in salary payments and that the situation had got worse since January 1997.

*Obo Basak* finally delivered its cargo from Mauritania to Dunkirk on 25 February and left Dunkirk on 18 March in ballast, to load coal in Norfolk Virginia. The ship anchored off Norfolk on 3 April. On the second day at anchorage official papers were

posted on the bridge stating that the ship was under arrest on behalf of creditors. The bosun recorded on his camcorder that during his continuous 33 months onboard this was the second arrest that he had seen. The first arrest was in Brazil and had lasted one week.

The bosun started to work for Marti in 1992. He tried for more than a year to get a job in the company and in the end with the influence of a relative he succeeded. During his current contract he had been aboard the *Obo Basak* for 33 months (he stayed another 5 months till October 1997). Initially he wanted to have a long contract in order to save money to buy a house but his wife became seriously ill and he spent over \$ 7000 on the medical expenses. This prolonged his stay aboard. However, all his savings gradually disappeared because his wages were not paid regularly.

While at anchor off Norfolk the bosun recorded that:

The crew is very demoralised and stress is very high. We haven't received any money. There are rumours that Marti went bankrupt but no one knows anything. Some crew members say that there is news about the company in Turkish papers that it is in financial crisis. Is it just gossip or reality? The ship is arrested by creditors for \$ 500.000 – we don't know what will happen. We are trapped here without any information. ... (*recorded on 7 April 1997*).

The port chaplain in Norfolk knew the ship and the crew well and with his help some of the crew members were able to take shore leave. After talking to some of the crew, the port chaplain became very concerned about their welfare and unpaid wages and suggested that he could help the crew members to get their back wages through legal means. The ratings held a meeting in the messroom to explore the possible options but only one crew member was in favour of seeking legal action. The next day the ship was able to berth and loaded 50,000 tons of coal for Iskenderun – Turkish Eastern Mediterranean port. *Obo Basak* left Norfolk on circa 13 April. The crew was relieved that the next destination was Turkey.

On 23 April the bosun was in tears when he recorded on his camcorder that he had spoken to his wife over the ship's satellite phone and asked her to send 10m TL [circa \$70] for him to Iskenderun – the next port of call. He also recorded that he cannot sleep at night and there are 10 days more to reach Iskenderun. However, the ship

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dropped anchor in Gibraltar – for more than 10 days. During the time of anchor the bosun continued to record the events and the main emphasis was on the stress onboard and he mentioned often that they were waiting for fuel at the anchorage. Eventually the ship arrived in Iskenderun on 15 May.

In Iskenderun nine out of 21 crew members left the ship without receiving their back wages: the Radio officer, AB, Fitter, Pumpman, Welder, Oiler, Wiper, Second Cook and Steward. According to trainee cadet Haluk, the second officer had also left the ship leaving behind \$ 18,000 unpaid back wages. Four cadets also expressed their desire to leave the ship but the captain refused. Haluk recollects:

When the ship arrived in Iskenderun we had been aboard for three and half months. I went to see the captain with the other three cadets to tell him that we would like to leave the ship as none of us had received any money. The captain had blackmailed us and said that if we leave he would write negative reports for us. As we needed a good report to complete our studies - we were trapped. Later it became clear that as some deck officers left the ship they were short of officers. On our departure from Iskenderun one of the young officers who didn't leave the ship became the chief mate. He was only 4 years older than me. I became the third officer although I didn't have the right certificates. I hadn't even graduated from the school yet. The captain also gave me 50 million TL [\$ 350] – that is the only money I had from the company during my 7 months stay onboard (*interviewed by EK, November 1998, the port of Felixstowe, UK*)

In Iskenderun the electrician Aydin telephoned his wife in Istanbul and asked her to bring some money. Aydin was the eldest member of the crew and was born in 1938. He had been at sea since January 1967. He started to work for Marti in 1991 with the influence of a friend who was a ship surveyor working for Marti. His friend encouraged him to work for Marti and said “they pay in green” (meaning in US\$). When he telephoned his wife, Aydin had been onboard for 10 months and had not been paid for the last 6 months. His wife Semsal recollects:

Aydin telephoned me from Iskenderun asking to take some money for him. I had a cheque from the company and went to cash it at the bank but it bounced. I went to the company and they gave me another post dated cheque. There was very little money in our bank account and I withdrew all and borrowed some more from the neighbours. I exchanged the money in \$ currency and I took \$500 to Iskenderun. I travelled there with a couple of other wives of *Obo Basak* crew by bus [over 18 hour's journey]. In Iskenderun I stayed aboard till the ship left. During my stay I asked Aydin so many times to return with me back to

Istanbul as there were some people leaving the ship. Aydin said “no” that he had been working for the company since 1991 and had many happy days. He was also concerned that the company’s difficulties would deepen if many people left. (*Interview by EK, 17 October 1999, Istanbul*).

The bosun had also received 10m TL from his wife. Like Aydin and Caner, many other seafarers got in touch with their families in order to get some money. The families were already in dire straits as in many cases the seafarers were the sole breadwinners for their families. Some families did their best to find money.

In order to stop the crew members leaving the ship Marti sent a telex to the ship. On 29 May 1997, the telex was posted on the ship’s notice board. It read:

Dear Captain XX [name withheld]

Since November 1996 various incidents caused a cash crisis for the company. The reasons for this crisis include delays in ports, various groundings and collisions of our ships and for political reasons one of our creditor banks brought limitations to our use of credit. However, all the difficulties with our payments will be cleared next week and by the 6<sup>th</sup> June Friday [the date ship sailed from Iskenderun] we expect to pay all our outstanding debts. We would like to thank our staff for being patient and understanding.

Regards

[*MtS File, translated from Turkish by EK*]

In fact, three days after the telex, Marti re-mortgaged the ship for the third time and received \$2.5m from a Turkish bank. The document on the *Obo Basak*’s mortgage record (Ship’s mortgages usufruct) shows that between 1995 and 1997 Denmar mortgaged the ship 3 times for the total amount of \$26.5m. The first mortgage was on 2 December 1995 for \$5m by Turk Ticaret Bankasi A.S. (Turkish Bank of Commerce); the second mortgage was on 1 March 1996 for \$19m by Faysal Islamci Bank of Bahrain E.C. (Faysal Islamic Bank); and the third one was on 2 June 1997 for \$2.5m by again Turk Ticaret Bankasi A.S. (*MtS Files, Letter sent to MtS, Dunkirk by Lawyer Maitre Carlier, 15 January 1998*).

Despite the fact that company received \$2.5m when the *Obo Basak* was in Iskenderun not much money filtered through to the crew. In Iskenderun, to slow the crew exodus, the captain had paid 5m TL (circa \$35 in May 1997 exchange rate) to each rating - the

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lowest paid crew member's monthly salary was \$ 500. The company also tried to fill the positions of seafarers who left the ship.

Yilmaz was an oiler who had been working for Marti since 1986. Yilmaz said that it was not easy to get job in Marti as the company required a reference from someone who was known to them. They also required a minimum of 4 years work experience. Yilmaz's first application to the company was rejected but when he went to try his luck a second time he saw a chief engineer who was working for Marti. Yilmaz had worked with him before and the chief engineer told the personnel director to take Yilmaz immediately.

In mid May 1997 Marti contacted Yilmaz. He recollects:

I signed off from another ship of Marti – *Obo Deniz*. The company owed me 7.5 months salaries for my service onboard of *Obo Deniz*. I went to their office [in Istanbul] to get my money. They said that they would pay me if I join the *Obo Basak* in Iskenderun. On 16 May they gave me a post dated cheque for the 27 May. Although the amount [about \$2000] didn't cover all my back wages I accepted it. I left the cheque with my wife and I joined the ship in Iskenderun on the 17 May (*interviewed by EK, 21 October 1998, Cinarcik, Yalova*).

Before departure from Iskenderun Yilmaz telephoned his wife and mentioned to her the telex received from the company and that all the outstanding debts would be cleared by 6 June. He advised his wife to cash the cheque on that day. However, when Yilmaz telephoned his wife later from Dunkirk he learned that his wife went to the bank on 6 June to cash the cheque but the cheque was bounced once again.

Murat had had a small metal workshop but during the first Gulf War in 1990 the Turkish economy was hit badly and he had to close his shop down. He started to work for Sonmez Shipping but soon they also went bankrupt. He managed to get work in Marti in 1992. Murat was also one of the crew members who joined the *Obo Basak* in Iskenderun and he recollects:

I had been working for Marti since 1992. I worked on various ships of the company as well as in its workshops – called Kamar. I had not received my salary since January 1997 – they gave me just a little pocket money once or twice. On the 20 May 1997 while I was working at Kamar I received a phone

call from the personnel director of the company. He told me to pack my belongings and go to Iskenderun to join the *Obo Basak*. I said but I don't have any money and my children are hungry. He said "don't worry about it you just join the ship" (*interview by EK, 15 October 1998, Istanbul*).

On the 6<sup>th</sup> of June *Obo Basak* left Iskenderun in ballast, once again to deliver ore for Sollac from Mauritania to Dunkirk. Murat continues to recollect:

Between Iskenderun and Dunkirk for over a month I was not able to contact my family to find out whether they received any money from the company. There were no cigarettes, no soft drinks or anything like that in the ship's store. In Dunkirk I learned that my family received no money and that was worse than anything else. (*interview by EK, 15 October 1998, Istanbul*)

In Mauritania while the ship was loading ore for Dunkirk the second officer, the captain's nephew, signed off unexpectedly. Haluk became second officer and his position as a third officer was filled up by another trainee cadet Cem. Within a month therefore Haluk had been promoted from trainee cadet to 3<sup>rd</sup> officer then to 2<sup>nd</sup> officer. The *Obo Basak* left Mauritania with 30 crew members aboard – 5 officers, 4 deck cadets (two of them – Haluk and Cem - were listed as deck officers) and 21 ratings (including petty officers - electrician, radio officer etc.).

### **Being abandoned: conflict, charity and choices**

*In Dunkirk particularly, ratings did not know about the arrest of the vessel by the creditors of Marti Shipping and they learned of the situation a week after the arrest. The Mission to Seafarers port chaplain provided assistance and informed the local ITF inspector about the situation of the crew. Seafarers faced a dilemma in relation to deciding whether to take legal action against the company or not. The seafarers on board were of different opinions. Some refused to take legal action on the basis of loyalty but some had mixed feelings and their loyalties were challenged by the material conditions of their families at home. With the passage of time the financial situation of families at home worsened and without any other option the seafarers were forced to join the other creditors and took legal action against their company. However, Marti responded by sending dismissal letters to crew members who applied to the French courts to recover their unpaid wages:*



On arrival in Dunkirk, on 8 July 1997, the ship had many more visitors than usual. When the cargo discharging was finished, the ship was moved to a waiting berth. The ratings started to feel that something unusual was going on. Some saw a paper glued on the bridge door in French and asked the ship's agent what the paper said. The agent told the ratings that the ship was under arrest.

In the first instance there were nine parties involved in the arrest of the ship, with claims against the ship totalling \$4m. As we have seen the ratings of *Obo Basak* learned the news a week after the actual arrest. Zeynel, the cook, explained that the crew did not know what to do:

We trusted the company and we worked unpaid for months, but what else could we do. Of course you would work, if you don't where can you go? We're in the middle of the sea most of the time. We didn't know anything about our rights and maritime law. We didn't know where to go, how to complain or who to complain to. Our problems were first noticed by the Russian captain of the ship berthed next to us in Dunkirk and he informed the Mission. If that hadn't happened no one would have protected us. (*interview by EK, 15 October, 1999, Istanbul*).

The Russian captain contacted the Missions to Seafarers' port chaplain and he immediately started to deal with the welfare of the crew and informed the ITF. The local ITF inspector visited the ship and held a meeting with the crew and told them about their legal rights. He also made it clear that he could not take any action against the company unless they made a formal complaint. Although the crew became aware of their rights they were divided about the ITF involvement and making a formal complaint concerning their condition. There were different opinions among the crew, represented by two different groups of seafarers: those who had worked for Marti for a long; time and those who were newly recruited. The first group mainly consisted of Yilmaz (Oiler), Husnu (AB), Caner (Bosun) and Aydin (electrician). These seafarers had been working for the company for 12, 12, 7 and 7 years respectively. They talked about a similar situation in the mid 1980s when the company was not able to pay the crew for 3 months but when it then sold a brand new coaster and eventually paid all due back wages.

Yilmaz remembers that in Dunkirk, Mustafa (oiler), Serkan (AB) and Erol (OS) who were in favour of the ITF involvement, frequently came to his cabin to talk about the situation. Yilmaz told them many times that the company keeps young seafarers' wages for a couple of months to stop the seafarers deserting the ship in the US and other places like that. But on telephoning his wife he himself, realised the situation was more serious than this. He explained:

When I spoke to my wife from Dunkirk she told me that the cheque that Marti gave me to join the ship was bounced on the 6<sup>th</sup> of June and she has been to the company everyday since then only to receive abusive treatment and there was nothing to eat at home (*interview by EK, 15 October 1998, Istanbul*).

Yilmaz also recollected that during a tea break in the crew messroom Aydin mentioned that his cheque had also bounced and suggested to Caner that they would have to do something as the company was taking advantage of their loyalty. Caner was very cross with him. The situation became so heated that other crew members had to become involved to separate the two. However, the very next day the situation had changed and crew members recollect that Caner walked into the crews' messroom in tears. He had just spoken to his wife and learned how she and the other seafarers' wives had been treated by the company. Caner recollects the telephone conversation between him and his wife and his thoughts afterwards:

That day, when I telephoned her, she said that she had just come back from the company and they told her not to disturb them again. My wife told them that she didn't have any money and asked them what they expected her to do. Did they expect her to sell her body on the streets? She was crying over the phone, when I heard my wife telling me all this, I felt that the whole world was collapsed over me. I gave my everything to the company - I worked under very difficult and unsafe conditions. I wanted them to run the ship and make money. They were like my second family. In return they should give at least a little money to live on but instead to get that sort of treatment affected me very badly (*Interview by EK, 16 October 1999, Istanbul*).

At this point twenty-four members of the crew took the decision to approach the port chaplain and expressed their desire to take legal action against the company. The local chaplain contacted the ITF headquarters in London and they advised the local inspector to visit the ship to obtain power of attorney forms from the seafarers

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involved. In late June 1997 the ITF Inspector visited the ship and 24 crew members out of thirty signed power of attorney forms including the cadets, the radio officer and the electrician. Only the captain, chief engineer, chief officer, second and third engineers and one rating refused to sign. In consultation with the crew the ITF inspector's calculation of the total back wages due amounted to approximately \$95,000. The captain and the chief engineer abandoned the ship the day after the visit of the ITF inspector. On the 29 July the ITF co-ordinator for France sent a strong letter asking Marti what it intended to do to settle the back wages in full as well as to provide for proper repatriation once this was done (*ITF Files, letter by James Smith, 29 July 1997*). However, 2 weeks later Marti responded with a telex announcing that contracts of the crew who had taken legal action were terminated (*MtS Files, Dunkirk*).

### **Daily work and provisions aboard**

*When seafarers are abandoned they are confined to their vessel which is also their work place. There are still many daily tasks to be done and the ship needs to be maintained and kept secure. Abandoned seafarers can hardly abandon their work, and duties aboard for the Obo Basak crew were not any different. Again like many other abandoned seafarers the Obo Basak crew lacked provisions onboard and their appeal to the community in Dunkirk and beyond had a very positive response. In this respect they were fortunate compared to some other abandoned seafarers. There are cases of abandonment where seafarers report that they needed to collect rain water to drink or rely on their abilities to catch fish to eat:*

Despite all the turmoil, the *Obo Basak* crew continued to work hard and continued to do repair and maintenance work as the French *Affaires Maritimes* affirmed after a technical inspection on 20 July finding nothing wrong with the ship. The ship's agent in Dunkirk said that the crew kept the ship in good condition:

We didn't get a cent from Marti for our services but we continued to act as the ship's agent and one of the main reasons for this was the *Obo Basak* crew.

There was no risk for us because none of the crew went in town to break or steal things. Every crew member remained proud and dignified. There was no riot onboard. The situation wasn't easy because they were always waiting, waiting to be paid, waiting for court to decide today, tomorrow, next week, next month. It was difficult for them to keep calm under the circumstances and sometimes I felt completely useless when I went aboard. There was nothing I could tell them - no news, nothing! When I was going up the gangway each time I mentally prepared myself to hear comments like "why are you coming on board if you have nothing to tell us"? But, this never happened. They were very friendly. The crew seemed like completely untouched by the problem. AB, cook, oiler, and all the others were working despite being trapped in such a situation and being completely abandoned. They kept the ship very well. (*Interview by EK, 9 September 1998, Dunkirk*)

Caner also talked about their daily work in Dunkirk:

In Dunkirk we carried the work as usual. The ship had 9 cargo holds each with 12,000 tonnes capacity. We cleaned all the cargo holds and lubricated all the hatches. It was a 25 years old ship so chipping rust and painting was done regularly. On top of all this there were some checks and maintenance work that needed to be done periodically. The ship was moored in a tidal area and this also created some extra work such as regularly securing the gangway and so on. The departure of the captain and the chief officer and the involvement of the ITF did not stop us working. Even our last day onboard, before leaving the ship, we doubled the lines for the security reasons. The ship was secured with 18 mooring lines when we left (*interview by EK, 16 October 1999, Istanbul*).

The engine room was not different. Hakan and Mustafa, who were both oilers, reported that in Dunkirk they cleaned and maintained all the pistons and injectors as well as carrying out routine work in the engine room. Both in the engine room and on deck watches were kept.

One of the main issues that the crew said drove them to take legal action against the owner was lack of onboard provisions. When the ship arrived in Dunkirk there was no fresh water and the crew solved this problem by connecting to the port's mains at night time to take fresh water – when the tanks were full they stopped this as it was a risky practice. As far as food supplies were concerned, although there was no fresh fruit or vegetables in the stores, the cook told the crew that with effective rationing they would have enough rice, pasta, flavour, onion, potato and beans etc. for a month. The crew also made best use of their time while drifting en route from Mauritania to Dunkirk during rest hours by fishing. They were able to store some 500 kg of fish in

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the deep freeze. (*the cook and the second cook were interviewed by EK, 15 October 1999, Istanbul*).

The port chaplain made provisional arrangement with the port authority to advance fresh water and fuel to the ship for humanitarian and safety reasons. However, food was a problem. The crew appealed to the Turkish Embassy for help but they received no response to their numerous calls and faxes. In August 1997, a month after the ship had been abandoned, the crew decided to appeal directly to the public via the local, national and international press. Three television and seven radio stations ran stories. In addition the local, national and international newspapers covered the case of the *Obo Basak*. The crew also managed to get two Turkish television stations to come aboard and broadcast and this was followed by reports in many Turkish newspapers. The response from the community in Dunkirk and beyond was enormous. As the ship's agent in Dunkirk explains:

The situation of the *Obo Basak* crew was not the worse we have seen, for example like the *Samarkand* [a ship abandoned in Dunkirk for 10 months in 1996]. The crew of *Samarkand* had nothing to eat, but nothing. That was because in the *Obo Basak* case there was an appeal on TV. A wedding couple came aboard with their wedding cake and a lot of food from their wedding reception. The community spirit was there. Many charitable institutions were involved. But there was a balance to be kept – it was done in a way so that the seafarers didn't feel undignified (*interview by EK, 9 September 1998, Dunkirk*).

What Husnu said also illustrates the community support:

As soon as they read our news in the papers three deaf and mute French people came to visit us. We learned that they had been in Turkey for a holiday and had just come back. They brought some biscuits and soap with them and also gave us a cheque for FF 800 to telephone our families in Turkey. Even the deaf and mute people heard about our appeal but no response came from the owner or the Turkish Embassy (*interview by EK, 15 October 1998, Istanbul*).

Perhaps in the face of this generosity the sense of betrayal by the company was exacerbated. Certainly the attention of the crew became increasingly focused on the forthcoming court case. At this stage the seafarers were optimistic that the courts in Dunkirk would settle their back wages and that justice would be done.

**Winning and losing: the court case and the repatriation of the crew**

*As Marti abandoned and sent dismissal letters to the Obo Basak crew the court case in Dunkirk became the only hope for them to recover their back wages and secure repatriation to their homes. However, as the Obo Basak case highlights a simple legal procedure (i.e. claiming unpaid wages) could become very complicated when different jurisdictions of the flag state and port state are taken into account. The Obo Basak case also highlights the very limited immigration rights for abandoned seafarers – despite having been dismissed and being in receipt of a charitable offer of repatriation they were treated as illegal immigrants and were not free to be repatriated:*

A local lawyer in Dunkirk (who also arrested another Marti ship, *Obo Deniz*, in early June 1997) said that he was willing to arrest the vessel on behalf of the crew, without ITF involvement, for the advance of ushers' fees (around FF 9,000). He also said that he did not need to be paid on the crew's behalf, as he would get enough money from the *Obo Basak* case since he was representing some other creditors. The crew accepted the offer.

During the court hearing on the 2<sup>nd</sup> of September, the owners instructed their lawyer to claim that French courts were not competent to hear the case and that it should be held in Turkey. There was also an argument that Marti Shipping and Denmar were different companies, one owned the ship and the other one employed the seafarers. However, this was rejected by the judge on the grounds that some papers submitted to the court were letter headed by Marti and some others came from Denmar so therefore the court deemed that they were one and the same. Nonetheless, the first requests for formal arrests and the crews' claims were heard. The lawyer for the crew stated that the absence of written contracts for the crew meant that French wages should be paid for equivalent ranks on board. He also lodged a claim on their behalf for FF1.6m (\$256,000) wages, based on salaries in the French merchant navy. The final decision for the crew claims was expected to be given on the 5<sup>th</sup> or 9<sup>th</sup> September. The managing director of Marti commented in the shipping press that the sum was more

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than required and said that “the company owes the crew USD 76,000” (*‘Marti keeps fighting’*, by Gillian Whittaker, *Trade Winds*, September 1997).

Meanwhile on the 3<sup>rd</sup> of September, two crew members were repatriated for compassionate reasons. The oiler, Necdet, wanted to be with his wife who was undergoing a critical hospital operation. His son was also a kidney patient. The radio officer Ferit was anxious to attend the wedding of his son, for which he originally hoped to pay with his earnings at sea. The ITF paid for their repatriation. On the 7<sup>th</sup> of September the four cadets were also repatriated as their final term at the maritime school was about to start. The remaining *Obo Basak* crew went to court again to hear the judge award them 70% of a French seafarer’s equivalent salary (70% of the FFr1.6). But they were told that they would not be able to receive their money for at least six months. After hearing the case, on the 9<sup>th</sup> of September a further 14 crew members were repatriated. The Mission to Seafarers gave FF800 to each seafarer to help them to reach their houses from the airport in Istanbul. As requested by the harbour master three officers and four ratings (Caner, Aydin, Hasan and Mustafa) stayed aboard waiting for their reliefs. The port authority accepted that 7 seafarers should remain onboard since Marti had promised replacements within the week. Meanwhile Caner received an urgent message that his wife had been taken to hospital to have kidney surgery on the 19<sup>th</sup> of September. The port chaplain drove him to the airport in Paris at 4 am on the day of the operation.

During this time there was an intense exchange of messages between the harbour master, the agent and Marti in relation to the replacement crew. The correspondence started in mid August and finally, on the 15<sup>th</sup> September, Marti submitted the names and ranks of 8 seafarers to the harbour master via the agent. However, the harbour master refused the list on the basis that one of the persons reported as a crew member was a two year old child. In fact Marti contacted an electric officer called Adem and for some reason Adem wanted to join the ship with his family (his wife and two year old son). The wife was listed in the crew list as a purser. After the rejection of the first crew list another crew list arrived on the 18<sup>th</sup> September with names and ranks of 8 crew members. This time the harbour master accepted the list. The list contained a bosun (Yasar), an oiler (Huseyin), a cook (Bekir), a donkeyman (Mustafa C.), an AB

(Yusuf) and a second officer (Volkan), Electric officer (Hayati) and a second engineer (Metin).

As we have seen the judgement in Dunkirk was in favour of the seafarers. The court also scheduled the sale of the ship for 15<sup>th</sup> October 1997. Marti Shipping, however, took the local court's ruling to the court of appeal in Douai. The appeal was upheld. The court in Douai ruled that claims by Turkish citizens against other Turkish citizens had to be heard in Turkish courts. The lawyer for the *Obo Basak* crew then advised that the appeal court ruling could be successfully challenged in the Supreme Court but that he was not qualified to conduct cases at that level. The Mission to Seafarers in Dunkirk then approached the ITF to ask them to provide sufficient funding for a study to evaluate the prospects of a successful appeal. The ITF agreed. The early victory for the crew was thus only fleeting in nature and the ordeal of the replacement crew arriving in Dunkirk was just beginning.

### **New crew: same story**

*Ongoing legal complications became very costly for the Obo Basak crew and their impact became more extensive with the arrival of the new crew. Many seafarers in the replacement crew knew the situation in Dunkirk and like the first crew they also came to Dunkirk out of their loyalty to the company and lack of choice. They also experienced the harsh realities of being abandoned in a foreign port (i.e. being unpaid, lack of onboard provisions and medical care, resort to charitable help, financial difficulties at home etc.):*

Of the original crew, the acting captain Adil remained on board. The eight new crew members arrived in two groups, the first group arrived 25 September (relieving Aydin and Hasan on the 26th) and the second group – the remaining 3 arrived on 2 October (relieving the last remaining rating – Mustafa, from the original crew). Before their departure from Turkey, the replacement crew were told not to believe anything that the Turkish press reported about the *Obo Basak*. The replacement crew were also told that the sea careers of the 23 crew members of *Obo Basak* were ended because they



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were black listed. They were also warned to keep away from the local chaplain because he was trying to convert Muslim seafarers to Christianity. They were assured by Marti that the company had won the court case and the ship would be ready to sail back to Turkey in 15 days time (*reported by Mustafa C., 18 October 1998*).

Mustafa C. had been at sea since 1980 but in 1986 and while at sea he heard that his father had died. He returned home immediately and then decided to stay ashore. His daughter was then 9 months old and his father had left money start a business. He opened a small garage and then expanded into a car hire business with a partner. However, the partner subsequently disappeared with a large sum of money and the business went bankrupt. Mustafa had to go back to sea again after twelve years. He therefore joined Marti Shipping in 1998 and his first voyage was to Brazil:

I was aboard the *Akova*. After seventy days we came back to Turkey to Eregli with iron ore. I telephoned home and my wife told me that she has received no money from the company. I left the ship immediately. I kept telephoning the company for the money but there was no luck (*interview by EK, 18 October 1998, Istanbul*).

Mustafa received an unexpected phone call from the company 45 days after he had left the *Akova* in Eregli. It was the personnel director and he said that the company needed some seafarers to go to Dunkirk. If Mustafa went there he would receive his 70 days of back wages – 90 million TL. Mustafa insisted he had to have the money first but the director also said that if he gave the money to him he could not go to Dunkirk. Mustafa went to Marti headquarters to negotiate with the personnel director:

The personal director told me that I'll return to Turkey with *Obo Basak* in two weeks time. I told him that the news about the ship in the papers was that the seafarers were hungry; there was no fuel onboard etc. He told me not to believe them. He assured me that Marti won the court case and the ship will leave Dunkirk soon (*interview by EK, 18 October 1998, Istanbul*).

After the meeting with the personnel director the deal was done. Mustafa's close friend Yusuf was also working for Marti and was trusted by both parties. The arrangement was that the personnel director would give 90 million to Yusuf and, after Mustafa's departure to Paris; Yusuf would deliver the money to Aysel (Mustafa's wife). Mustafa had to accept the arrangement because he was desperate. He also met

Metin, Yasar and Yusuf (a replacement crew member) at Marti headquarters. They were also being asked to join the ship in Dunkirk.

Metin, started to work for Marti in 1980. He started as an oiler and was promoted to be a fourth engineer. When the company contacted Metin, he had been ashore 2 months, trying to recover from his experience aboard another Marti ship – *Obo Engin*. The ship had been arrested in China and there were no provisions aboard. Metin was repatriated to Turkey on compassionate grounds when his daughter was taken to hospital with hepatitis B. The company owed him 10 months wages – he had not been paid since October 1996. In October 1997 he went to the company to make some inquiries about his unpaid wages. Since an engine room officer was one of the ranks requested by the harbour master in Dunkirk and Marti was having difficulty in finding one, Metin, knowing nothing of the situation, was asked and agreed to join the *Obo Basak* in Dunkirk:

The company owed me rather a lot of back wages. Although I received very nominal pocket money – which is not worth mentioning – I didn't receive any proper money since October 1996. They told me that – Mustafa C. was also at present – “we will pay 80% of your salary on the day of your departure to Dunkirk”. They asked me to leave my passport with them for a French visa. Before the airport I went to the company to receive 80% of my back wages but they gave me only 1,000\$. They told me that I would receive the rest as soon as my arrival to Dunkirk. What could I do? I had to believe them (*interview by EK, 20 October 1998, Istanbul*).

Two Marti ships, *Obo Selim* and *Obo Elif* were arrested in Gibraltar by Den Norske Bank (DbN) and on the 16<sup>th</sup> of September 1997 they were sold. Yusuf, Bekir, Yasar, Hayati and Huseyin were aboard the *Obo Selim* in Gibraltar and after the sale of the ship returned to Istanbul with the other crew members. On average the company owed them 5 months back wages each. They were approached by Marti and told that the *Obo Basak* was ready to sail after a court case. They would be paid wages as soon as the ship began to earn money again. Hulya, Bekir's wife said that when her husband joined *Obo Basak* the company owed him 4 month's back wages. Bekir spent 6 month aboard the *Obo Selim* unpaid, but the Norwegian bank paid the last two month's salaries as the ship was under arrest by them during that period (*Reported by the Replacement Crew, 15 October, 1999, Kadikoy, Istanbul*). On 25<sup>th</sup> September five crew members (Mustafa C., Metin, Yusuf, Yasar and Volkan the second officer)

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joined the *Obo Basak* and they were followed by a second group of three seafarers (Huseyin, Hayati and Bekir) on the 2<sup>nd</sup> of October.

In Dunkirk, on the 5<sup>th</sup> October 1997, the port chaplain held a meeting with the new crew. The seafarers said that the periods for which they had not been paid were (in months) 2, 3, 4, 5, 7, 7, 10 (one crew member refused to say how long). The chaplain suggested that he would consult the lawyer in Dunkirk about their ability to claim for wages earned on their previous ship along with their time on the *Obo Basak*. However, they told the chaplain that they wanted to test the loyalty and honest dealing of Marti for themselves before coming to any conclusions about action. Before they had left Turkey, Marti had promised to pay wages owed to their families and give money to the seafarers after they had been aboard one month. This, they said, would be one test. They also said that Marti had sent \$2,000 (\$1,000 with each group that going the ship) with them for the ship's safe for provisions (*MtS Files, Dunkirk, "Obo Basak Up-Date 3 and 4, 28 September and 5 October 1997"*).

At the end of October 1997 the acting captain (Adil), and second officer (Volkan), went back to Turkey. In their case there was no involvement with the ship's agent, the Mission or the ITF and the reasons for their departure are not known. Marti again started to look for officers to replace them. Aydemir had worked for the company for 15 years. He was the brother of Zeynel the *Obo Basak's* cook. The company owed Aydemir 5 months wages. He was approached by Marti to go to Dunkirk and was promised promotion from Bosun to third officer if he joined the *Obo Basak*. He accepted the offer despite a warning from his brother, Zeynel, on his return to Turkey from Dunkirk. Aydemir, together with Captain Cem, joined *Obo Basak* on 27 October in Dunkirk as a third officer.

Captain Cem had worked for Marti as a superintendent. When Marti contacted him to join the *Obo Basak* he was about to set up a new business in one of the ports in Istanbul. At first he said that he could not join due to his new business but Marti managed to persuade him and told that he would be away less than a month. However, Cem was stuck in Dunkirk for 3 months and in the end he told the company he was returning back to Istanbul at his own expense. Cem was also determined to take Yusuf with him back to Turkey, as Yusuf was very ill. Since losing his house in Turkey due

to being unable to pay the instalments Yusuf had developed a heart condition and was seriously depressed (*reported by Mustafa, Replacement Crew, 15 October 1999, Kadikoy, Istanbul*)

The replacement crew did not receive their promised wages from Marti. Their situation was in fact worse than that of the first crew. Their ship was removed to an isolated berth and by January 1998 the ship's electricity, supplied from ashore by the port authority was cut off. Since there was no fuel aboard for the ship's generator and therefore no adequate heating and lighting, the remaining crews' health deteriorated in the winter conditions. Metin described how:

It was alright at the beginning, we're using electricity from the port. But later they cut the supply. We started to use the ship's generator. In winter we ran out of fuel. All of us got ill. I had a bronchitis and Yusuf's condition become worse. We have received no wages from the company. They kept promising us to repatriate and pay. None of it materialised.

Captain Cem returned to Turkey with Yusuf on 28 January 1998. The company did not send a replacement for Yusuf. Captain Cem's relief, Captain Zeki, arrived Dunkirk on 27 January and was the last seafarer to join the ship.

Captain Zeki had resigned from the Turkish Navy in 1985 and worked for Marti until 1989. But as Marti started to buy OBO-type ships, he decided to leave the company as he preferred to work on small bulk carriers. He recollects a phone call from Marti that was made in January 1998:

They asked me to join *Obo Basak* in Dunkirk but by chance I had heard about the ship on the news a couple of days earlier. I told them this but they said there would be a court case on 20 February, that the ship will be released, will load coal for Iskenderun and they were asking me to just bring the ship back to Turkey. Well, I always felt gratitude towards Marti that they helped me in my difficult days in the 1980s so I felt that I had to do something for them in return (*interview by EK, 18 October 1998, Istanbul*).

Zeki, of course, had learned the real situation on his arrival in Dunkirk:

When I started to read the documents on board I saw the public auction decision by the French courts [on March 20]. I knew then the ship was never going back to

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Turkey but I could not go back immediately. I didn't want to leave the crew behind. They were extremely demoralised (*interview by EK, 18 October 1998, Istanbul*).

Zeki was familiar with abandonment - as one of his previous ships was abandoned in Genoa. He was stranded for 10 months and 5 days and spent the last 3 months as the only crew member. His experience proved to be extremely valuable for the *Obo Basak* crew. He promised them that he would get them all back to Turkey. "That was the only hope to keep the crew going" he said. Every evening the crew walked to the Mission where they phoned home. On these occasions Captain Zeki said:

After each telephone call home crew members were returning to the ship in a state – shaking like a leaf. The news from home was distressing - no money, no food, children being ill. All the seafarers were there to earn money and support their families and there was nothing coming from the company. Personally there was not much I could do but support them psychologically. I was not in a good condition either. I could not share my problems with the crew. I had no money in my pocket. I felt suffocated after each phone call to home and in the end I had to ask my wife not to tell me anything that I can't solve from Dunkirk (*interview by EK, 18 October 1998, Istanbul*).

During this period Metin heard that his daughter was still struggling with hepatitis B and his family had received no money from the company either for his wages from *Obo Engin* or for his service aboard *Obo Basak*. Where the ship itself was concerned, the time for auction was approaching. The lawyer for the *Obo Basak* crew in Dunkirk sent a message to the replacement crew through the port chaplain warning that if they wanted to claim their back wages as creditors from the ship's sale they needed to act quickly. It was legally impossible to claim anything from the sale of the ship after it was sold and the crew was advised to apply at least 3 days before the sale date of 20 March.

Captain Zeki telephoned the company almost everyday. Marti kept telling Captain Zeki that *Obo Basak* would be bought by a Turkish company and there were two interested - Turk Bank and Yasar Bank. In the end just 24 hours before the sale, on the 19<sup>th</sup> of March, Zeki telephoned the port chaplain and asked him to contact the lawyer to say that they would like to apply to court as creditors. Zeki also informed the company about their intention. On 20<sup>th</sup> March the ship was sold at auction for F.fr 9.2m to an unnamed buyer. After the sale of the ship Zeki and the crew refused to

leave the ship “Where could we go if we left the ship without any ticket? In the end we signed a paper that we would not claim anything from the new owner and our tickets were bought” he said. The unnamed new owner appointed a new agent in Dunkirk. After negotiations with the new agent the *Obo Basak* crew were guaranteed repatriation and agreed to leave the ship upon the arrival of the new crew.

The name of the ship was changed to *SAKI* (they just painted over “Obo Ba” and added 1 after “sak” - and the port of registry was changed from Istanbul to Kingstown. The ship now flew the flag of St Vincent and Grenadines. *SAKI*’s last journey was to Pakistan to be scrapped.

In Istanbul Captain Zeki took the log books and all the papers to the Marti Office where he met the Managing Director of the company:

I asked her what would happen now. She said, “You applied to the French courts as a creditor and that is where you should follow your case up”. I explained to her that we applied to the court, at the last possible minute, with the knowledge of the company as a precaution and no money came from them. Her response was “bye bye, go and get your money from the court” I haven’t been in touch with the company again (*interviewed by EK, 18 October 1999, Istanbul*)

However, the company did contact the crew asking them to join another Marti ship - *Urgup* that was arrested in Iskenderun – they all refused (*reported by the Captain Zeki, 15 October 1999, Kadikoy, Istanbul*).

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## CONCLUSION

It is evident from the context of this paper that Marti abandoned its crew. It was not however the sort of fly by night operation with which abandoned ships are often associated. As we have seen, all of its employees were proud to be working for Marti and they sometimes had to wait for years or use their influential networks to get into the company. It is difficult to establish what factors brought Marti into financial difficulties. What is clear however is that during its final period Marti managed to operate in breach of international regulations, for example by forcing its cadets to sail as navigation officers and not paying the salaries of its employees for up to one year. The *Obo Basak* crew despite all the signs of betrayal had been loyal to their employer and taken legal action as a last resort when they were confronted with the realities of the hardship faced by their families at home. The *Obo Basak* crew unlike their families had been “fortunate enough” to be looked after by the voluntary organisations and local communities in Dunkirk and beyond. Their appeal for help had a very good response but cases do not always work out like this.

There were no legal safety nets to protect seafarers. Even when the *Obo Basak* crew resorted to legal action they were let down by the French legal system which was unable to deal with foreign seafarers abandoned in French ports (see also Chaumette 2004a and 2004b, Alderton et al 2004). The *Obo Basak* demonstrates that there are some central issues with abandoned seafarers such as repatriation, wages owing and welfare of the crew during the process of their abandonment and there are no existing instruments to provide direct solutions to these problems. As we have seen IMO and ILO resolutions and guidelines on the provision of financial security for abandoned seafarers came into effect on 1 January 2002. It needs to be emphasised that they are the first comprehensive guidelines addressing the various problems of abandoned seafarers globally and need to be brought into practice.

## **ACKNOWLEDGEMENTS**

A series of coincidences let me to the abandonment case of the crew of the *Obo Basak*. I met first time with an ex-*Obo Basak* crew member in July 1998 in the port of Bristol in the UK by chance. After hearing about the case I decided to document the experiences of the *Obo Basak* crew retrospectively. Inevitably the fieldwork heavily relied on in-depth interviews with the seafarers. Meeting and listening to them was a heart breaking and painful experience but this was nowhere near what the seafarers and their families have experienced. However, my very special thanks must go to the *Obo Basak* crew and their families who opened their homes, and their hearts, without any hesitation to a stranger.

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