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1. "YASA NESLIHAN": A HIJACKING WITH A HAPPY ENDING

The day of the 29th of October was like any other day for us and for Yasa Shipping (managers of the "Yasa Neslihan"). However, the day was dramatically disrupted in the afternoon, when we received the news that the "Yasa Neslihan", with all hands onboard, had been hijacked by Somalian Pirates in the Gulf of Aden, which was still recognised as a safe zone by the authorities!

Of course we had a rough idea of what had been going on there. We were particularly interested since we had taken pictures of the "Faina" during her Bosphorus passage just before her hijacking (which can be found on www.ship-spotting.com <<http://www.ship-spotting.com>>). However, we did not know at that time that it was the start of a long ordeal for the crew onboard as well as a struggle for the owners and for us during the entire period, which lasted well over 70 days.

The first couple of days were like boxing in the dark, since we were not able to establish contact with the ship and no one had any information about the safety of the crew. A crisis team was formed at the managers' headquarters, we, as a part of that team also had responsibility for media relations and assisting the company in liaising with the family members, who were naturally extremely worried about the safety of their beloved husbands and sons.

Of course, we called for professional help, which proved to be indispensable at all stages of the hijacking. We were practically given orders for each and every step we took and we were given advice about media relations.

As was to be expected, the story was reported in countless papers and on primetime TV channels, even in live coverages. The media aspect proved particularly difficult since the press relentlessly chased the story and on several occasions there were leaks to the media or information was used irresponsibly and was often fabricated, which endangered the whole operation.

During the hijacking, the crisis team with its professional advisors spent virtually each and every day focussing on the matter, speaking occasionally with the master, getting news from the crew (albeit information was restricted by the pirates) and also trying to calm them down. One of the designated team members (as the spokesman for the company) was negotiating with the spokesman for the pirates onboard,

sometimes every day, sometimes once in a while. The pace was wholly dictated by the pirates themselves. Needless to say, our one and only aim was the safe return of the people on board as soon as possible.

After a short while, we understood that the matter could not be resolved in a matter of days and one of our tasks was to caution the families and also the media that we did not expect to get the boys back for at least two and half months. Of course, the hijacking of another Turkish vessel (MT Karagol) in the meantime boosted the media interest yet again.

We spent the whole of November and December 2008 resolving the matter and working on the release of the crew. At the same time, we were also working out how to deliver the ransom, which turned out to be a very complex operation by any standards. We finally reached a deal with the pirates in early January 2009.

The very early hours (was it around 5 a.m.?) of the day the ransom was to be delivered were quite unforgettable – the proof of life given by the pirates which was relayed by the pilot of the plane delivering the ransom, our instructions for the airdrop, the complete ban of information to the media until the ship reached safe waters (which was not until the next day).

After exchanging opinions with the master, we decided that the crew change should take place in Singapore, which was well over another week of steaming time.

I was also part of the team that went out to Singapore to bring the boys back to their homes and the first moments when we boarded the vessel were extraordinary. (You can also find the pictures I took just before boarding "Yasa Neslihan" at www.shipspotting.com <<http://www.shipspotting.com>>) Needless to say, the return flight was just as memorable.

Of course there are many issues which remain classified and this why I am not able to give precise information on several points, such as the amount of the ransom. But my opinions are not secret at all, and I can only say that the problem down there cannot be solved by naval actions alone, I think that political action is needed as well. Last but not least, our congratulations and best wishes are with all the sailors of "Yasa Neslihan" and all other ships sharing the same fate, whether released or still captured.

2. POLLUTION: CASE REPORT IN RESPECT OF CANCELLATION OF A FINE IMPOSED BY THE OFFICIALS

EVENT : A Court Decree, exhibiting that only the one tenth (1/10) of the overall fine issued against an unloaded (empty) tanker on passage from the Bosphorus should be implemented.

A tanker on route to Black Sea, fully unladen after discharging its previous load of sunflower seed oil at its discharge port, arrives at its anchoring moor at Istanbul upon passing through Dardanelles Strait. The vessel in question remains at its anchoring moor for a certain period of time in order to take on some supplies and paint whilst waiting for the Bosphorus to open up for sea traffic.

It is established for the fact that during the aforementioned period, in which the said vessel had waited for the Bosphorus to open up for sea traffic, there are many other vessels in the vicinity also. To the extend that it is constructed based upon the statement made by the Captain of the Vessel, during the aforementioned idle period, the crew of the Vessel notices a boat, name of which is invisible to crew, approaching toward the Vessel, but the crew can neither make any sense out of it, nor has a clue about why and for what purposes the said boat is approaching toward the Vessel.

After this event, the Vessel left the Turkish waters.

Following the vessel's departure of Turkish waters, Directorate of Environmental Protection Agency sends a payment order to the Turkish agents of the vessel demanding that a fine of TL 584.000,00 (approximately USD 384.000,00) be paid. Upon receiving that notice, the owners of the vessel paid up $\frac{3}{4}$ of the said amount in accordance with the Article 20 of the Directive titled "Determination of Breach in Administrative Fines Arising Under Environmental Act and Issuance of Fines and Recovery of Such Payments", but in the meantime filed a counter claim against the Directorate of Environmental Protection Agency before the Istanbul Court of Administrative Affairs.

In its submission, the Claimants (the Owners) argued that the Directorate of Environmental Protection Agency had acted pursuant to the provisions of the Article 20 of the Law that amended Law #5491 Environmental Act, which reads:

“Administrative fines that are issued in cases of discharging of dangerous materials and wastes are issued at TENFOLD of the prescribed amount by the implementation of the category that includes petroleum and petroleum-derivative products”.

and the reason why the provisions of this Article 20 was actually implemented was because the Vessel was actually classed as a “Chemical Tanker”. Furthermore, the Claimant also argued that because the Vessel is classified as a “tanker” the same reasoning could not have been effective in the multiplication of the fine in tenfold; since the law clearly defined by wording that “a tenfold implementation of a fine is only possible under an event of actual discharging of dangerous waste and materials. Yet, the Vessel is free of any such chemical materials or products or cargo since its unladen, and therefore it is totally unjustifiable in terms of laws to issue such a fine just because the Vessel is classified as a “tanker”.

The Claimant, during the hearing, submitted for the attention of the Court the bill of lading of its previous cargo, the Cargo Manifest that showed that the cargo carried was sunflower seed oil, the Statement of Facts that showed that the Vessel has unloaded all its cargo, the surveyor’s records, empty tanks certificates, as well as the Vessel’s Agents’ statement duly issued a day prior to this event, informing Directorate of Customs & Excise and Branch Directorate of Sea Port that the Vessel is to pass the Bosphorus fully unladen.

Whereas the Defendant (Directorate of Environmental Protection Agency), in its defense, stated that the named chemical tanker had caused an environmental pollution, and alleged that the tanker had left the vicinity of the event despite all warnings. Furthermore, the Defendant further alleged that they were unable to take any samples from the Vessel for it had left the area, and therefore they only managed to take sampling off the sea water and, in accordance with the foregoing, they submitted to the Court the analysis results of the said sea water sampling, photographs taken during the said sampling process supported by video image.

In response to the Defendant, the Claimant suggested for consideration a section of the Analysis Report that reads “the amount of sampling taken off the sea water is insufficient” as well as the values/data contained in the Analysis Report, and concluded that the Defendant had implemented a fine that was unlawful. In addition, the Claimant had got in touch with the General Directorate of Coastal Safety who in response to the Claimant had confirmed in writing that the Vessel was fully unladen/empty during its passage at Bosphorus. This written confirmation, too, was handed to the Court, before which it was totally proven by solid evidence that the Vessel was unladen/empty and therefore it was physically impossible for the Vessel to have dumped / discharged dangerous materials or dangerous waste into the sea.

First Degree Court, also, stated that “although it is obvious by the official report that the Claimant’s Vessel had caused pollution on the surface of the sea water due to discharges made by the Vessel, there is no clear cut positive evidence that the said on-the-surface pollution was caused by petroleum and petroleum-derivative products, and that implementation of a tenfold fine pursuant to aforementioned Article 20 is unjust, and therefore the excess payment made by the Claimant to be refunded to the Claimant along with all interest that would have incurred upon the same.”

The Defendant filed a notice of appeal, but the High Court granted the case in line with the First Degree Court’s decree and finalized the same.

Aforementioned claimants were represented by Ulgener Law Office.

3. YACHTING – NEW TAX REGULATION

In accordance with law no. 5897, regarding the alteration of the Decree-Law concerning the Establishment and Duties of the Undersecretariat of Maritime Affairs and other laws, “mooring registries” are to be established within the port authorities and municipalities, and vessels that weigh less than 18 gross tons (those vessels which are not obliged to be registered in the National Register or the Turkish International Ship Register) have been exempted from the motor vehicle tax which is applied to the motor vehicles in

accordance with law no. 197. The new regulation provided by law no. 5897 dated 06.05.2009 has brought in a system different from stated in the law no. 197 that an annual visa (?) charge is specified according to the length of the vessels under the weight of 18 gross tons in order to be registered to the “mooring registries” while the former tax regime used to be determined according to the engine sizes. Article 5 comes into effect on 30.06.2009. In Article 4, another alteration is that vessels exclusively used for transportation and fishery are exempted from the charges stated in the same article. Annual visa charges for the vessels to be registered to the “mooring registries” according to Article 4 of the law no. 5897 are:

5 to 9 meters: 200.00 TRY
 9 to 12 meters: 400.00 TRY
 12 to 20 meters: 800.00 TRY
 20 to 30 meters: 1600.00 TRY
 Longer than 30 meters: 3200.00 TRY

4. OUR NEW CLIENTS – ZER AS (MEMBER OF THE KOC GROUP)

We are proud to inform the readers that we have signed an exclusive legal support contract with Zer AS, which is a member of the Koc Group, the largest group in Turkey. Zer AS has just recently commenced to undertake transportation of the import / export cargo (approx 200.000 containers per year) for the whole Koc Group and we are delighted to assisting them to draft their new volume contracts and to negotiate terms of the future bills of lading. For more information please visit <http://www.koczer.com>.

5. OUR NEW CLIENTS – BEKS SHIPPING

We are also delighted to declare that we became the legal advisers for the newcomers, Beks Shipping, they have three new orders of 57.600 dwt panamax bulkers and they are sincerely looking forward to be a successful shipping company in all kind of market conditions. The main business of Beks is textile, with an impressing group of large factories outside Istanbul. For more information please visit <http://www.beksshipping.com>.

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