

SEAFARER SUBJECT GUIDE

ABANDONMENT OF SEAFARERS IN TURKEY

This Guide deals with the situation where seafarers are abandoned in a port in Turkey as well as where seafarers are abandoned on a Turkish flagged vessel in a port outside Turkey. This document is not intended to be legal advice, nor does it constitute legal advice. If a seafarer is abandoned, he is strongly advised to consult a lawyer qualified to practise in Turkey.

*A full text version of this Subject Guide including footnotes will become available for subscription in due course. In the meantime if there is a specific inquiry on any Subject Guide, please contact SRI.

- 1. When is a seafarer considered abandoned according to national case law or legislation? Is there any special legislation concerning abandoned crew?**
 - 1.1 Under the Turkish Commercial Code ('the TCC'), a shipowner of a vessel which is registered can abandon the vessel by notifying the registry office about the renouncement from the right of ownership of the vessel and by registering it to the vessel registry. Also, the employment contract between the shipowner/charterer and the seafarer will be terminated *ipso facto* if abandonment occurs. Consequently there is no provision regulating the abandonment of a seafarer under the TCC or the MLC.
 - 1.2 However there is legislation regulating the repatriation right of a seafarer in certain circumstances. Turkey is a contracting party to ILO Convention No. 166 ('Convention 166') and a seafarer is entitled to repatriation in the following circumstances:
 - (e) 'in the event of the shipowner not being able to continue to fulfil his or her legal or contractual obligations as an employer of the seafarer by reason of bankruptcy, sale of vessel, change of vessel's registration or any other similar reason;
 - (f) in the event of termination or interruption of employment in accordance with any industrial award or collective agreement, or termination of employment for any other similar reason.'
 - 1.3 When the vessel has been abandoned as per the TCC, the contract of employment will consequently be terminated *ipso facto*, the seafarer will be entitled to repatriation. It will be the shipowner's responsibility to arrange for repatriation and if the shipowner fails to make arrangements, the competent authority of the member state must arrange and meet the costs of repatriation.

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2. What is the immigration status of abandoned seafarers?

- 2.1 The Passport Law ('the TPL') regulates entry to and exit from Turkey of Turkish citizens and aliens. If the seafarer is not a Turkish citizen, according to the TPL, apart from the exceptions stated within this law, the seafarer as an alien will have to obtain a visa from the competent Turkish authorities to enter into Turkey.

3. Can an abandoned seafarer get shore leave?

- 3.1 Turkey is a contracting party to the Seafarers' Identity Documents Convention 1958 (No. 108) ('Convention 108'). According to the Convention:

'(1) Each Member shall permit the entry into a territory for which this Convention is in force of a seafarer holding a valid seafarer's identity document, when entry is requested for temporary shore leave while the vessel is in port.

(2) If the seafarer's identity document contains space for appropriate entries, each member shall also permit the entry into a territory for which this Convention is in force of a seafarer holding a valid seafarer's identity document when entry is requested for the purpose of:

- (a) joining his vessel or transferring to another vessel;
- (b) passing in transit to join his vessel in another country or for repatriation; or
- (c) any other purpose approved by the authorities of the Member concerned.'

- 3.2 Turkey must thus permit the abandoned seafarer entry into Turkey for temporary shore leave.

4. Is abandonment of seafarers considered a crime?

- 4.1 Abandonment of seafarers is not a crime under the law of Turkey.

5. What entities and/or persons may be involved with or assist an abandoned crew?

- 5.1 Various entities and/or persons may be involved with or assist an abandoned crew.
- 5.2 Lawyers

See FIND ASSISTANCE on the SRI app which can be downloaded from the home page of the SRI website at www.seafarersrights.org

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5.2.1 In addition, reference may be made to the Guide on Using Lawyers and Fact File available on the SRI app and at

https://www.seafarersrights.org/seafarers_subjects/using_lawyers/

5.3 ITF Inspectors and union officials

See FIND ASSISTANCE on the SRI app which can be downloaded from the home page of the SRI website at www.seafarersrights.org

5.4 Welfare agencies

See FIND ASSISTANCE on the SRI app which can be downloaded from the home page of the SRI website at www.seafarersrights.org

5.5 Governments and Embassies

Additionally the seafarer may need to access government official websites, including lists of embassies, to find an appropriate contact.