

Centre for Maritime Law Case Commentary 1/2026*Unity Ship Group SA v Euroins Insurance JSC (The Happy Aras)*¹

Seaworthiness – Due diligence – General average – Passage planning

1 Facts

In March 2023, a bulk carrier, *Happy Aras*,² then³ flagged under the Belizean flag,⁴ was on a voyage charterparty from Reni (Ukraine) to Mersin (Turkey) carrying a cargo of soya beans. The bills of lading were on the Congenbill 94 form, and cl 3 provided that general average (GA) was to be adjusted and settled in London in accordance with the York Antwerp Rules (YAR) 1994. A paramount clause, cl 2(a), provided that the Hague Rules were incorporated.⁵ While en route to Mersin, the vessel ran aground on the north shore of the Datça peninsula. The vessel's gross tonnage was below 3,000 tons, and as there was no mandatory requirement for a voyage data recorder (VDR),⁶ the vessel was not so equipped.

The *Happy Aras* was severely damaged and required salvage, lightening, and transhipment services. Unity Ship Group SA, the shipowner, declared general average (GA) and appointed Blue Seas Adjusters Ltd as average adjusters. The insurer of the cargo owners and voyage charterer, Diatold Trade Pte Ltd, provided an average guarantee⁷ which covered contributions

¹ [2026] EWHC 7 (Admlty), [2026] 1 Lloyd's Rep 151. Judgment by Admiralty Registrar Davison was handed down on 12 January 2026. See David Osler, 'Cargo Claim Rejected After "Dereliction of Duty" Caused Bulker Grounding' *Lloyd's List* (London, 16 January 2026).

² IMO 8202965. At the time of the incident, the *Happy Aras* was 33 years' old, having been built in 1990.

³ Now flagged with Vanuatu.

⁴ The International Merchant Marine Registry of Belize (IMMARBE), ranked 62nd in the Paris MOU Black List for the period to June 2026 and is considered 'medium to high risk': <<https://parismou.org/Statistics%26Current-Lists/white-grey-and-black-list>> accessed 22 June 2026.

⁵ Ukraine is not a party to the Hague or Hague-Visby Rules.

⁶ See SOLAS 1974/1988, Ch V, reg 20.1.4.

⁷ The average guarantee was governed by English law and contained a jurisdiction clause in favour of the High Court in London.

from cargo interests to GA as were ascertained to be ‘reasonably, properly and legally due’. Euroins refused to pay⁸ its GA contribution on the grounds of alleged unseaworthiness, caused by the shipowner’s causative breach of the contract of carriage:⁹ (i) the vessel was not manned with a competent crew, specifically a competent master; (ii) there was no proper system in place for passage planning and/or there was a failure to exercise due diligence in passage planning, in contravention of IMO’s Guidelines for Voyage Planning.¹⁰

2 Evidence

At the trial, the focus was on the passage plan, signed by the master and chief engineer, and the master’s conduct as the officer of the watch (OOW)¹¹ from 20.00 on the eve of the grounding. Two experts¹² relied on (i) the deck log,¹³ engine log, and GPS log; (ii) a copy of the working chart for the relevant section of the voyage;¹⁴ (iii) brief statements given before the Turkish Commercial Court; and (iv) publicly available AIS data.¹⁵

The master had taken over as OOW at 20.00, and the agreed-upon passage plan provided for the vessel’s position to be plotted and recorded in the deck log at least every ten minutes, between Way Points 51 and 52 and at least every 30 minutes between Way Points 52 and 53. There was no such record.¹⁶

As recorded in the judgment, there was an early alteration of course on a southerly heading, which ‘cut the corner’ and was a deviation from the passage plan.¹⁷ This change was not

⁸ Cf *Alize 1954 v Allianz Elementar Versicherungs AG (The CMA CGM Libra)* [2021] UKSC 51, [2021] 2 Lloyd’s Rep 613, [20], where 8% of the cargo owners similarly declined to pay their GA contribution.

⁹ Ibid, [21]. See also Rule D of the YAR 1994 and RR Cornah et al, *Lowndes and Rudolf The Law of General Average and the York-Antwerp Rules* (15th edn, Sweet & Maxwell 2018) [D.02] et seq.

¹⁰ Resolution A.893(21).

¹¹ For the required standards, see the STCW Code, Ch VIII/2, particularly Part 3 – Watchkeeping at Sea.

¹² See <<https://www.solis-marine.com/post/the-happy-aras-grounding-black-sea-turkey>> accessed 22 June 2026.

¹³ See SOLAS, Ch V, reg 28.

¹⁴ The *Happy Aras* was built in 1990, and electronic charts were neither used nor legally required. Such are required for cargo ships of 3,000 gross tonnage and upwards constructed on or after 1 July 2014.

¹⁵ All vessels on international voyages are obliged to have Automatic Identification System (AIS) transponders if over 300 tonnes: see SOLAS, Ch V, reg 19. See Capt JCP Brown, ‘Bridge Navigation Watch Alarm Systems (BNWAS)’ in Andrew Tettenborn & John Kimbell QC, *Marsden and Gault on Collisions at Sea* (15th edn, Sweet & Maxwell 2021) App 12.

¹⁶ Above (n 1) [8].

¹⁷ Ibid, [7].

recorded in the deck log, and there were inconsistencies in the information recorded, suggesting that the vessel took avoiding action 23 minutes before the grounding. However, these actions were not confirmed by the AIS data and the opinions of the experts, including the claimant's expert.¹⁸ The master's testimony before the Turkish Commercial Court was also inconsistent with the AIS data and the experts' opinions.¹⁹

3 Seaworthiness and crew competency under the Hague Rules

Article III, rule 1, of the Hague Rules²⁰ provides that the carrier is bound 'before and at the beginning of the voyage to exercise due diligence to (a) make the ship seaworthy and (b) properly man, equip and supply the ship ...' Seaworthiness 'is used in its ordinary meaning, and not in any extended or unnatural meaning'²¹ but the standard required, 'due diligence', is 'indistinguishable from an obligation to exercise reasonable care'.²² As explained in the third edition of *Carver*,²³ the expected standard

... is not equivalent to a duty to provide [a ship] that is perfect, and such as cannot break down except under extraordinary peril. What is meant is that she must have that degree of fitness which an ordinary careful and prudent owner would require his vessel to have at the commencement of her voyage, having regard to all the probable circumstances of it. To that extent the shipowner, as we have seen, undertakes absolutely that she is fit; and ignorance is no excuse. If the defect existed, the question to be put is, Would a prudent shipowner have required that it should be made good before sending his ship to sea had he known of it? If he would, the ship was not seaworthy within the meaning of the undertaking.²⁴

¹⁸ Ibid, [12].

¹⁹ Ibid, [13]-[14].

²⁰ Also, the Hague-Visby Rules. For fuller consideration, see Stephen Girvin, *Carriage of Goods by Sea* (3rd edn, OUP 2022) [27.15]-[27.34] (downloadable from Oxford Law Pro, <https://academic.oup.com/oxford-law-pro>).

²¹ *Empresa Cubana Importada de Alimentos Alimport v Iasmos Shipping Co SA (The Good Friend)* [1984] 2 Lloyd's Rep 586, 592 (Staughton J). Confirmed in *The CMA CGM Libra* (n 8) [81] and upheld in Malaysia: *Owners of Cargo carried in the Ship 'Gang Cheng' v Owners and/or Persons Interested in the Ship 'Gang Cheng'* [1998] 6 MLJ 468 (H Ct, KL), 488; *Budget Marine Ltd v Astimewa Sdn Bhd* [2025] MLJU 3484, [45].

²² *Riverstone Meat Co Pty Ltd v Lancashire Shipping Co Ltd (The Muncaster Castle)* [1960] 1 QB 536 (CA), 581 (Willmer LJ).

²³ TG Carver, *A Treatise on the Law Relating to the Carriage of Goods by Sea* (3rd edn, Stevens & Sons Ltd 1900) 20-21.

²⁴ See *MT Cape Bonny Tankschiffahrts GmbH & Co KG v Ping An Property & Casualty Insurance Co of China Ltd (The Cape Bonny)* [2017] EWHC 3036 (Comm), [2018] 1 Lloyd's Rep 356, [118]; *Alize 1954 v Allianz Elementar*

Competent crew is long-standing, as illustrated from the *Charter party of the Cheritie* (1531), which refers to a vessel equipped with ‘good and able maryners’.²⁵ The contemporary language, for ‘sufficient’ mariners, is laid down by the IMO Principles of Minimum Safe Manning,²⁶ and, as already noted, the Hague Rules requires the carrier to ‘properly man, equip and supply the ship’. This clearly extends to the competence of the vessel’s crew,²⁷ including its master.²⁸ Thus, the shipowner has an obligation to ensure that the master is reasonably fit to occupy the post to which he has been appointed.²⁹ The court quoted from *The Eurasian Dream*,³⁰ noting that: (1) while perfection is not required, incompetence or inefficiency, such as a ‘disabling want of skill’ or a ‘disabling want of knowledge’, each of which renders ‘the master unfit and unqualified to command’,³¹ makes the ship unseaworthy; (2) incompetence or inefficiency was a question of fact which might be proved by one incident and did not have to be demonstrated by reference to a series of acts;³² (3) one mistake or even more than one mistake did not necessarily render a crew-member incompetent;³³ (4) Incompetence should be distinguished from negligence and might derive from (a) an inherent lack of ability;³⁴ (b) a lack of adequate training or instruction, such as a lack of adequate fire-fighting training;³⁵ (c) a lack of knowledge about a particular vessel and/or its systems; (d) a

Versicherungs AG (The CMA CGM Libra) [2021] UKSC 51, [2021] 2 Lloyd’s Rep 613, [98]-[99]. The latter was quoted in this case: above (n 1) [22].

²⁵ Reginald G Marsden (ed), *Select Pleas in the Court of Admiralty*, vol 1 (Selden Society 1892) 35.

²⁶ Resolution A.1047(27) (20 December 2011).

²⁷ *Hongkong Fir Shipping Co Ltd v Kawasaki Kisen Kaisha Ltd* [1962] 2 QB 26 (CA) (incompetent engine room staff); *Robin Hood Flour Mills Ltd v NM Paterson & Sons Ltd (The Farrandoc)* [1967] 2 Lloyd’s Rep 276 (Ex Ct Can) (an engineer, new to the vessel, opened the wrong valve during pumping operations, allowing water to enter and damage cargo).

²⁸ *Moore v Lunn* (1923) 15 Ll L Rep 155 (CA), 156 (master and chief engineer ‘habitual drunkards’); *The Makedonia* [1962] 1 Lloyd’s Rep 316 (lack of burnable fuel oil owing to inefficiency of ship’s engineers). Cf *Sea-Link Marine Services Ltd v Doman Forest Products Ltd (The Arctic Hooper)* 2003 FCT 712, (2003) 235 FTR 173 (master’s lack of experience towing lumber not a disabling want of knowledge or skill).

²⁹ *The Makedonia*, *ibid*, 337.

³⁰ *Papera Traders Co Ltd v Hyundai Merchant Marine Co Ltd (The Eurasian Dream)* [2002] EWHC 118 (Comm), [2002] 1 Lloyd’s Rep 719, [129] (Cresswell J) (ineffective use of CO₂).

³¹ *Standard Oil Co of New York v Clan Line Steamers Ltd (The Clan Gordon)* [1924] AC 100 (HL), 120-1 (failure to bring instructions concerning turret ships to the notice of the master of the vessel was a failure to use due diligence to make the ship seaworthy).

³² *Manifest Shipping & Co Ltd v Uni-Polaris Insurance Co Ltd (The Star Sea)* [1997] 1 Lloyd’s Rep 360 (CA), 373-4.

³³ *Ibid*, 374.

³⁴ *Ibid*.

³⁵ *The Clan Gordon* (n 30); *Robin Hood Flour Mills Ltd v NM Paterson & Sons Ltd (The Farrandoc)* [1967] 2 Lloyd’s Rep 276 (Can Exch Ct) (lack of knowledge of an engine room piping plan); *The Star Sea* (n 32) (operation of a CO₂ fire-fighting system).

disinclination to perform the job properly;³⁶ (e) physical or mental disability or incapacity, such as drunkenness or illness.³⁷

4 The passage plan

Chapter V, reg 34 of SOLAS 1974 (as amended) provides that, prior to proceeding to sea, the master must ensure ‘that the intended voyage has been planned using the appropriate nautical charts and nautical publications for the area concerned, taking into account the guidelines and recommendations developed by the [IMO]’.³⁸ It is also mandatory for the voyage plan to ‘ensure sufficient sea room for the safe passage of the ship throughout the voyage’³⁹ and ‘anticipates all known navigational hazards’⁴⁰. There is detailed provision in the IMO’s ‘Guidelines for Voyage Planning’, and in other international instruments, such as the STCW Code⁴¹ and the ISM Code.⁴²

The passage plan used a standard form prepared by the second officer for a ‘berth to berth’ passage, signed by the master and the chief engineer. It was adjudged ‘of a basic type’ by Euorins’ expert. It was incomplete because it did not contain waypoints for certain passages, such as the Sulina Canal, and transits through the Bosphorus and the Dardanelles Straits. It should have (i) provided for no-go areas around the Datça Peninsula, and (ii) contained cross track limits⁴³ indicating the maximum permitted excursion from the planned track. These limits and proximity alarms should also have been entered into the radar. Unity’s expert opined that as the Datça Peninsula shelved so steeply, the no-go areas were effectively the land itself, and there was little point marking them on the passage plan. However, he agreed that cross track limits and proximity alarms were desirable, albeit not formally required. In his

³⁶ *The Makedonia* (n 28) 335.

³⁷ *Moore v Lunn* (1923) 15 Ll L Rep 155 (CA), 156 (master and chief engineer ‘habitual drunkards’); *Rio Tinto Co Ltd v Seed Shipping Co Ltd* (1926) 24 Ll L Rep 316 (master ill after falling and striking his head on the deck).

³⁸ Reg 34.2.

³⁹ Reg 34.2.2.

⁴⁰ Reg 34.2.3.

⁴¹ See particularly the STCW Code, A-VIII/2, reg 5.

⁴² The International Safety Management Code: see Resolution A.741(18), as amended, and *Guidelines on the Application of the IMO International Safety Management (ISM) Code* (6th edn, ICS 2024).

⁴³ i.e., an ECDIS safety parameter (XTL), set by the navigator, defining the maximum allowable distance a vessel can deviate from its planned route.

view, it would have been sufficient if they had been entered into the radar system, but there was no direct evidence one way or the other.

5 Judgment

5.1 Incompetence of the master

Registrar Davison held that the master was incompetent.⁴⁴ The reasons were that he did not comment on the failure by the previous OOW to plot and record the vessel's position or the vessel's position in the deck log. He had, in fact, similarly failed to do so.⁴⁵ The departure from the passage plan was not recorded in the deck log. Further, before waypoint 54 was reached, the master had sent the lookout below to make tea, in clear breach of the vessel's SMS.⁴⁶ A third issue was that when the vessel reached the waypoint, the master had failed to alter course to 231 degrees.⁴⁷ A fourth issue was that the master could not 'have been keeping a proper, or indeed any, lookout'.⁴⁸ A fifth issue was that the master had failed to take meaningful action regarding the Bridge Navigational Watch Alarm System (BNWAS).⁴⁹ The sixth issue was that, after the grounding, the master had made 'exculpatory' entries in the deck log and engine log, but these were 'false and intended to deflect blame'.⁵⁰ In short, the errors were 'numerous and egregious' and could be characterised as 'a complete dereliction of duty'.⁵¹ The errors were 'multiple' and 'serious'.⁵² Finally, the burden of proof of due diligence, which was on the claimant, had not been discharged.⁵³

5.2 Passage planning

The final issue concerned whether the passage plan caused the vessel's unseaworthiness. Although, as already noted, this was considered 'basic', the passage plan was not causative of

⁴⁴ Above (n 1) [29].

⁴⁵ Ibid, [32].

⁴⁶ i.e., safety management system: *ibid*, [34].

⁴⁷ Ibid, [35].

⁴⁸ Ibid, [36].

⁴⁹ Ibid, [37]. See Marsden (n 15) App 14.

⁵⁰ Ibid, [38].

⁵¹ Ibid, [39].

⁵² Ibid, [40].

⁵³ Ibid, [45].

the grounding and, if followed, would not have led to it and, on its own, was not sufficient to render the vessel unseaworthy.

5.3 Quantum

The final part of the judgment concerned quantum, and the GA adjustment carried out by the adjusters, which totalled US\$3,140,040.97. Although the defendant disputed its contribution, the Admiralty Registrar held that, had he upheld the case on liability, he would have awarded the GA expenses in the sum claimed.

6 Commentary

It is not often that a case turns on the incompetence of the master or, for that matter, the crew, although there are several well-known reported cases, notably *The Eurasian Dream*.⁵⁴ This case highlights how an egregious breach of this basic obligation will not protect the shipowner from a finding of unseaworthiness. Indeed, there could not have been a clearer example of unseaworthiness with multiple systemic errors on the part of the master in a context where, through his actions or inaction, he removed many of the checks and balances intended to safeguard the vessel and the voyage.⁵⁵ These were exacerbated by the master's inaccurate and misleading entries in the vessel's records.⁵⁶ In this context, faced with such overwhelming factual evidence, it was incumbent on the carrier, pursuant to Art III, rule 1, of the Hague Rules, to prove that due diligence was exercised 'before and at the beginning of the voyage'. Although the beneficial owner and manager, Captain Mutlu, stated that the master had worked for him for three years, and that he had obtained a positive reference from his previous employer, this fell 'a long way short of demonstrating due diligence', and the burden of proving due diligence had not been discharged.⁵⁷ Indeed, as highlighted in *The Eurasian Dream*, the shipowner (or manager) 'must take reasonable steps to ... satisfy

⁵⁴ Above, text to n 30.

⁵⁵ Above (n 1)[40].

⁵⁶ Ibid.

⁵⁷ Ibid, [45].

themselves by inspection of the seaman's documents, interviews and enquiries from previous employers that he is reasonably fit to occupy the post to which he is appointed'.⁵⁸

Postscript

The proceedings involving the *Happy Aras* did not have a happy outcome. On 22 December 2025, the vessel was detained under the Mediterranean MoU⁵⁹ at Çanakkale in Türkiye following the discovery of eleven defects, including 'emergency source of power — emergency generator'.⁶⁰ On 6 January 2026, the vessel was reported to have run aground off a headland near the Taman oil export terminal in the Black Sea, while in ballast and en route from Varna to Novorossiysk. The vessel was taking on water, and all 14 crew were evacuated. The vessel's reported market value is US\$1.5m, nearly twice its demolition value,⁶¹ and it is currently recorded as 'not under command' and 'out of range'.⁶²

[SDG]

⁵⁸ Above (n 30) [132] (Cresswell J).

⁵⁹ <<https://www.medmou.org/>> accessed 22 June 2026.

⁶⁰ Huaqing Ma, 'Ship Grounds after Grounding and Taking on Water' *Tradewinds* (London, 6 January 2026).

⁶¹ Ibid.

⁶² See <<https://www.marinetraffic.com/en/ais/details/ships/shipid:335003>> accessed 22 June 2026.