

SHIP ARREST IN LITHUANIA



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1. Please give an overview of ship arrest practice in your country.

The International Convention for the Unification of Certain Rules relating to the Arrest of Seagoing Ships, Brussels, 1952 (1952 Arrest Convention) was ratified by the Seimas of Lithuania in March of 2002 and is successfully applied by the Lithuanian Courts.

Depending on the amount of the security required a request to arrest a ship should be submitted either to the City Court of Klaipeda or to the County Court of Klaipeda. The city court deals with the claims in the amount up to 150 000 Litas only. When the amount of claim is higher, then an arrest application should be made to the County Court of Klaipeda. There is no specialized maritime court or judges in Lithuania. Majority of ship arrest cases are dealt by the County Court and less by the City Court of Klaipeda. The County court is also the court of appeal for the decisions of the City Court. For smaller cases (in the amount up to 150 000 Litas) a ship arrest application should be presented to the City court of Klaipeda. That court has about 30 judges and they are less experienced with the ship arrest practices. However generally the ship's arrest order can be obtained quite quickly from both Courts.

A small stamp duty must be paid before request to arrest a ship is lodged with the court.

2. Which International Convention applies to arrest of ships in your country?

The International Convention for the Unification of Certain Rules relating to the Arrest of Seagoing Ships, Brussels, 1952 (1952 Arrest Convention) and The International Convention on Maritime Liens and Mortgages (Geneva 1993) are ratified by Lithuanian Seimas and applicable.

3. Is there any other way to arrest a ship in your jurisdiction?

A Ship that is registered and flying the State flag of the State that is a Member to the 1952 Arrest Convention can be arrested only in respect of the claims enumerated in the Article 1 of the Convention. Other ships can be arrested in respect of maritime and non-maritime claims.

In accordance with the Article 12(1) on the Law of Klaipeda State Sea Port the Harbour Master may refuse clearance of the vessel in case that there are unpaid port charges or fines in respect of that vessel or the vessel has damaged the port's infrastructure, until such charges, fines and/or claims have been paid or secured.

4. Are there alternatives e.g. saisie conservatoire or freezing order?

No.

5. For which types of claims can you arrest a ship?

The types of claims in for which a ship can be arrested are enumerated in the Arrest Convention Para a) to q) of Article 1(1).

6. Can you arrest a ship irrespectively of the flag?

In accordance with the Article 8(1) of the 1952 Arrest Convention a ship flying the State flag of the Member State of the Convention can be arrested only for the claims enumerated in the Article 1 of the Convention. A Ship that does not fly the State flag of the State that is Member to the 1952 Arrest Convention can be arrested for any type of claims.

7. Can you arrest a ship irrespectively of the debtor?

Until now, the practice is such that we can arrest a ship irrespectively of the debtor. Several appeals filed on behalf of the arrested ship owners trying to challenge such arrest have been unsuccessful so far.

8. What is the position as regards sister ships and ships in associated ownership?

Under provision of the Arrest Convention a claimant may arrest the particular ship in respect of which the debt arose or any other ship owned by the debtor. Therefore arrest of a sister ship is permitted, except in respect of the claims mentioned in the Article 1(1), o-q. Ships in the associated ownership can be arrested if it can be proved that the same persons beneficially own them. Demonstration on the company's website a list of vessels under the name of company's fleet might be sufficient to prove that.

9. What is the position as regards Bareboat and Time-Chartered vessels?

Part 4 of the Article 3 of the 1952 Ship Arrest Convention shall apply in respect of arrest of a Bareboat chartered vessels. Such vessel can be arrested in respect of maritime claims created by the Bareboat Charterer, or any other vessel that is owned by the Bareboat Charterer can be arrested. Generally, a vessel cannot be arrested in respect of claims created by her Time- Charterer.

10. Do your Courts require counter-security in order to arrest a ship?

No counter security is required before arresting the vessel. A judge on own discretion or on request of the ship owner may order the arrestor to provide a counter-security within certain period of time. If such order is not complied with, the Court would lift the arrest. In practice counter -security is requested very rarely.

11. Is there any difference in respect to arresting a ship for a maritime claim and a maritime lien?

In case of maritime claim it is allowed to arrest either the ship in respect of which the maritime claim arose or any other sister ship. The subject to the maritime lien is the offending ship only. It can be enforced against the ship regardless of who was in control or possession of the vessel when the events which gave rise to maritime lien occurred. Maritime lien is not enforceable against a sister ship. Otherwise, there is no difference.

12. Does your country recognise maritime liens? Under which International Convention, if any?

Lithuania does recognise maritime liens as per the International Convention on Maritime Liens and Mortgages, 1993.

13. What lapse of time is required in order to arrest a ship since the moment the file arrives to your law firm?

Normally it takes 1-3 days.

14. Do you need to provide a POA, or any other documents of the claim to the Court?

We require a written legal service agreement that needs to be signed by a Client. Faxed or emailed copy of the legal service agreement is sufficient to present a ship arrest application to the court on behalf of a Client. An original copy of the agreement must be available if requested by the judge. No notarization or legalization is practically required. Basic claim documentation and correspondence evidencing that the debtor failed to pay the claim or provide security in respect of it to be attached to a ship arrest application.

15. What original documents are required, what documents can be filed electronically, what documents require notarisation and/or apostille, and when are they needed?

All documents can be filed electronically for the purpose of ship arrest. Only original legal service agreement should be available if so requested by the judge. A ship arrest application normally should be supported by:

- a copy of legal service agreement between the lawyer and the Client;
- a copy of an extract from the Companies' Register of the Client's State, confirming that the Client exists as a legal entity. It must also show the names of the persons who are entitled to bind legally the Client;

- Basic Claim documents that will depend on the type of the claim;
- Copy of an agreement containing the arbitration clause in case that the arrest is for obtaining of security in respect of maritime claim that is to be pursued in an Arbitration or an agreement to litigate in a foreign State Court, or an evidence that such proceedings have been commenced.

16. Will your Courts accept jurisdiction over the substantive claim once a vessel has been arrested?

Yes, the Lithuanian courts will accept jurisdiction over the substantive claim once a vessel has been arrested, subject that there is no agreement between the relevant Parties to litigate in other jurisdiction or in the arbitration.

17. Which period of time will be granted by the Courts in order for the claimants to take legal action on the merits?

According to the Code of Civil Proceedings of Lithuania the Court may allow not more than 14 days from the day of ship arrest to commence legal action on the merits of the claim with the competent court. Normally the courts allow 14 days.

18. Do the Courts of your country acknowledge wrongful arrest?

The court can order the Plaintiff to pay damage for wrongful ship's arrest in case that:

- a) the claim in respect of which the vessel was arrested is rejected;
- b) In case of misuse of the procedural rights to seek the ship arrest, for example arresting the vessel despite the fact that an adequate security has been provided, submitting to the court knowingly wrong information when seeking a ship arrest etc.

19. Do the Courts of your country acknowledge the piercing and lifting of the corporate veil?

There is no relevant practice yet, but in principle, yes.

20. Is it possible to have a ship sold pendente lite; if so how long does it take?

No.

