

# SHIP ARREST IN POLAND



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

Under Polish law, to arrest a vessel court order is requested. Such order is given in accordance with provisions of the Polish Civil Procedure Code (PCPC) on securing claims (art. 730 - 757). These provisions do not apply only to vessels but also to any other types of claims - both pecuniary and non - pecuniary.

Under the art. 730 (1) of the PCPC the security order will be granted to creditor:

- whose claim is probable,
- who has legal interest in the arrest.

Legal interest exists if lack of security makes it impossible to satisfy creditor's claim or satisfaction of this claim is connected with serious difficulties.

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

International Convention Relating to the Arrest of Sea-Going Ships of 10th May 1952 (Brussels Convention). The Brussels Convention is integral part of Polish law and is applied directly.

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

Maritime authorities may detain vessel for no more than 72 hours (excluding days off) to secure claims for outstanding port fees, claims for damages in port facilities, docks or sailing routes and claims arising from environmental pollution.

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

If vessel is entered into the Polish register of ships this is possible to encumber it with compulsory mortgage. In practice this is used mainly for securing creditors' claims on vessels under construction.

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

Vessels flying flag of Brussels Convention contracting parties can be arrested only for maritime claims listed in art. 1 para 1 thereof. Remaining vessels can be arrested also for other claims.

## 6. Can you arrest a ship irrespectively of her flag?

Yes, this is possible.

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

In the situations listed in art. 1 para 1 letters o,p,q of the Brussels Convention and with respect to maritime liens (actions in rem).

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

As under Brussels Convention.

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

As under Brussels Convention

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

The court may require payment of deposit to satisfy potential claims of the debtor connected with

wrongful arrest. This is, however, quite rare situation.

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

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

Poland is a party to Brussels convention on maritime liens and mortgages of 1926. Polish Maritime Code also contains provisions concerning maritime liens.

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

About 3-4 days (much depends on the judge)

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

We need POA and documents which prove that the person(s) who signed the POA is (are) duly authorised to represent the company (extract from commercial registers etc.)

We also need documents which show that claim is probable (we do not have to prove the claim in this stage of proceeding).

Certified translations to Polish are necessary in all cases.

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 should be filed in the Court in paper version – scans and copies are acceptable provided they are certified as “true copy” by the attorney-at-law (legal adviser or advocate). Additional legalisation, notarisation or apostille may be necessary for claims listed in art. 1 para 1 letters o,p,q and with respect to maritime liens (actions in rem).

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

As under Brussels Convention. Moreover, careful examination of other sources of law is recommended (the PCPC and Council Regulation 44/2001 in the first instance).

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

Up to 14 days.

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

Debtor can lodge a complaint against the security order. If the court allows the complaint, the debtor may claim for compensation for its losses connected with the arrest. The same relates to situation when the security collapses – for example if action as to the merits is not commenced in prescribed time, writ of summons is rejected or claim is dismissed.

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

No.

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

No.

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