



# ***SHIP ARREST IN ROMANIA***

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# ***GENERAL CONDITIONS (1)***

## ***a) Indicate and provide evidences that there is a debt against the owner of the vessel.***

- ▶ A ship can be arrested in Romania for one or more of the claims listed in article 1.1 of the 1952 Arrest Convention. Ships may be arrested in Romania also for one or more of the claims listed by the 1926 maritime liens and mortgages Convention.
- ▶ The arrest of the vessel can be requested even that the legal action on the merits has not yet started prior to the application to the Court. According to the new Civil Procedural Code the substantive claim proceedings has to be commenced in 20 days from the date the arrest application has been admitted by the Court.
- ▶ The evidence that plaintiffs have started the main legal action (Court action or arbitration proceedings) against the defendant should be a letter from a Court, apostilled according to Hague Convention 1961 or a letter from the appointed arbitrator showing that arbitration has started;

## GENERAL CONDITIONS (2)

*b) Indicate and provide evidences to the Court that the defendant in the main proceedings is the owner of the vessel;*

*c) Provide a guarantee / bail to the Court, as a percentage of the claimed amount (the amount will be fixed by the Court but in most of the cases is 10%).*

In accordance with the new Civil Procedural Code which entered into force on 15th of February 2013, the amount of the guarantee should be placed in cash and is limited at 20% of the claimed amount. In cases where no written evidences concerning the relations between the creditor and the debtor are presented to the judge, the amount of the guarantee will be fixed at 50% of the claimed amount.

*d) Romanian Courts does not accept jurisdiction over the substantive claim once a vessel has been arrested.*

# ***PROVISIONALLY SHIP ARREST***

- ▶ In case the matter is very urgent, vessels can be provisionally arrested through the Harbor Master. A notice of arrest will be notified to the Harbor Master.
- ▶ Harbor Master will place the order of arrest to the vessel's file and will not interrupt in any way vessel's operations. Notice of arrest will become effective when the vessel will finalize operations and vessel's agent will attend Harbor Master to receive vessel's permit to sail.
- ▶ Starting with the hour when vessel's agent will ask for the Permit to leave, Harbor Master will count 24 hours (Saturdays and Sundays are not included within these hours) and the vessel will be arrested for 24 hours. During these 24 hours, plaintiff will need to submit to the Court the application for the arrest of the vessel.
- ▶ Courts are judging these cases on an urgent basis and normally are issuing the decision within 24 hrs. There is no need for the time being to place the counter-security which will be requested by the Court at a later stage.

## ***INTERNATIONAL CONVENTION APPLIES TO ARREST OF SHIPS***

- ▶ Romania has acceded to the International Convention for the unification of rules about the arrest of vessels, signed in Brussels on May 10th 1952, on November 8th 1995.
- ▶ Article 8, paragraph 1 of the Convention provides that its provisions are applicable in any contracting state to any vessel that carries the flag of a contracting state. Paragraph 2 of the same article concedes the possibility that vessel that carries the flag of a non-contracting state may be arrested in one of the contracting states according to one of the claims listed in Article 1, or according to any other claim that permits the arrest according to the laws of that state. Romanian Courts are applying this principle when are taking into consideration the arrest of one vessel in Romanian jurisdiction.
- ▶ Paragraph 2 of the article 8 of 1952 Arrest Convention mentions the possibility that vessels that carries the flag of a non-contracting state may be arrested in one of the contracting states according to one of the claims listed in Article 1, or according to any other claim that permits the arrest according to the laws of that state.

# INTERNATIONAL CONVENTION APPLIES TO ARREST OF SHIPS

## ▶ *Sister Ships and Ships in Associated Ownership*

Sister ships may be arrested in Romania, following the provisions of the articles 951-952, 959-968 of Romanian Civil Procedural Code and not the provisions of the 1952 Arrest Convention. Romanian Courts are sometimes reluctant to order the arrest of sister ships, although this is possible. Ships in associated ownership cannot be arrested in Romania.

## ▶ **Bareboat and Time-Chartered vessels**

Bareboat and Time-Chartered vessels cannot be arrested in Romania for the claims against the Bareboat and/or Time-Charterer.

## ▶ **Ship Arrested For A Maritime Lien**

Romania recognizes maritime liens according to 1926 Maritime Liens and Mortgages Convention. Romania is not a party to the 1993 Maritime Liens and Mortgages Convention.

Arrest of a ship for a maritime claim will be done according to the procedure established by the 1952 Arrest Convention also in case of arrest of a ship for a maritime lien mentioned by the 1926 maritime liens and mortgages Convention.

# SPECIFIC REQUIREMENTS ON ARREST OF SHIPS PROCEEDINGS

- ▶ A notice of arrest will be notified to the Harbor Master, immediately as the file arrives to our law firm and an Engagement Letter, even by e-mail and/or fax, will be signed with the client. Harbor Master will place the order of arrest to the vessel's file and will not interrupt in any way vessel's operations.
- ▶ Based on the Engagement Letter signed by client, law firm will provide to the Court a power of attorney in the standard format prescribed by the Lawyers statute.
- ▶ Certified copies of the documents are accepted by the Courts. According with the provisions of the Romanian Procedural Civil Code legalised translations into Romanian of the documents are required. The Romanian Public Notaries and authorised translators need originals of the documents / notarised certified copies in order to issue the legal translations.
- ▶ The evidence that main claim proceedings has been instituted should be a letter from a Court, apostilled according to Hague Convention 1961 or a letter from the arbitrator appointed showing that arbitration has started.

# ***PROCEDURE TO RELEASE A SHIP FROM ARREST***

- ▶ As long as the debt has been paid or a Bank Letter / Letter of Undertaking has been provided in order to release the ship, the debtor will request the Court to release the vessel on urgent basis.
- ▶ In accordance with new Civil Procedural Code provisions, the security needs to be provided in cash at the disposal of the Court. Only in case the creditor agrees, the debtor may provide a bank Letter of undertaking or a P&I Letter of Undertaking at the disposal of the Court.
- ▶ The security need to cover interest and costs.
- ▶ The P&I LOU's may be accepted by the Court for lifting the arrest only if the creditor agrees.
- ▶ Usually, the release of the ship takes 1-2 days.





▶ *Thank you for your kind attention!*

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