



# Akademik Ioffe – Sovereign immunity?/ Immunity for state-owned vessels

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# State immunity

*par in parem non habet imperium*

- Absolute immunity doctrine
- Restrictive immunity doctrine
- *The Philippine Admiral*, AC 373, 1977
  - Marks the shift from the absolute immunity doctrine to the restrictive immunity doctrine in English law
- These principles also apply to state-owned vessels



# 1926 Convention on immunity of state-owned ships

First convention to codify state immunity

## Article 3

- *(1) The provisions of the two preceding Articles shall not apply to ships of war, State-owned yachts, patrol vessels, hospital ships, fleet auxiliaries, supply ships and other vessels owned or operated by a State and employed exclusively at the time when the cause of action arises on Government and non-commercial service, and such ships shall not be subject to seizure, arrest or detention by any legal process, nor to any proceedings in rem. [...]*

# Arrest of Akademik Ioffe in Denmark

- Russian owned vessel intended for research purposes
- Vessel and crew was hired by the claimant for passenger cruise
- Vessel ran aground in 2018 → cruise season ended prematurely and claimant suffered a loss → claimant applied for arrest of the vessel in Denmark
- Arrest of the vessel approved by the Danish bailiff's court (court of first instance) in Nov. 2021
- Owners appealed and the arrest was overruled by the Danish High Court in Dec. 2021





# Ruling of the High Court:

- Arrest was prohibited on the following grounds:
  - The vessel was owned by the Russian Federation
  - The vessel was used for research purposes at the time of the arrest
  - The use of the vessel at the time when the loss occurred was found to be irrelevant
- Therefore, Akademik Ioffe benefited from immunity and the arrest was lifted.



# Comparison to English law

- State Immunity Act, 1978
- *I Congreso del Partido*, 1 AC 244, 1983
  - Shipment of sugar from Cuba to Chile → Chilean claimant filed for arrest of a Cuban owned ship in Sunderland, UK
- The context must be seen as a whole
  - The nature of the conclusion of the contract and the breach → *acta iure gestionis* → Cuba not granted immunity

The outcome differs from the arrest of Akademik Ioffe





THANK YOU FOR YOUR ATTENTION!



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