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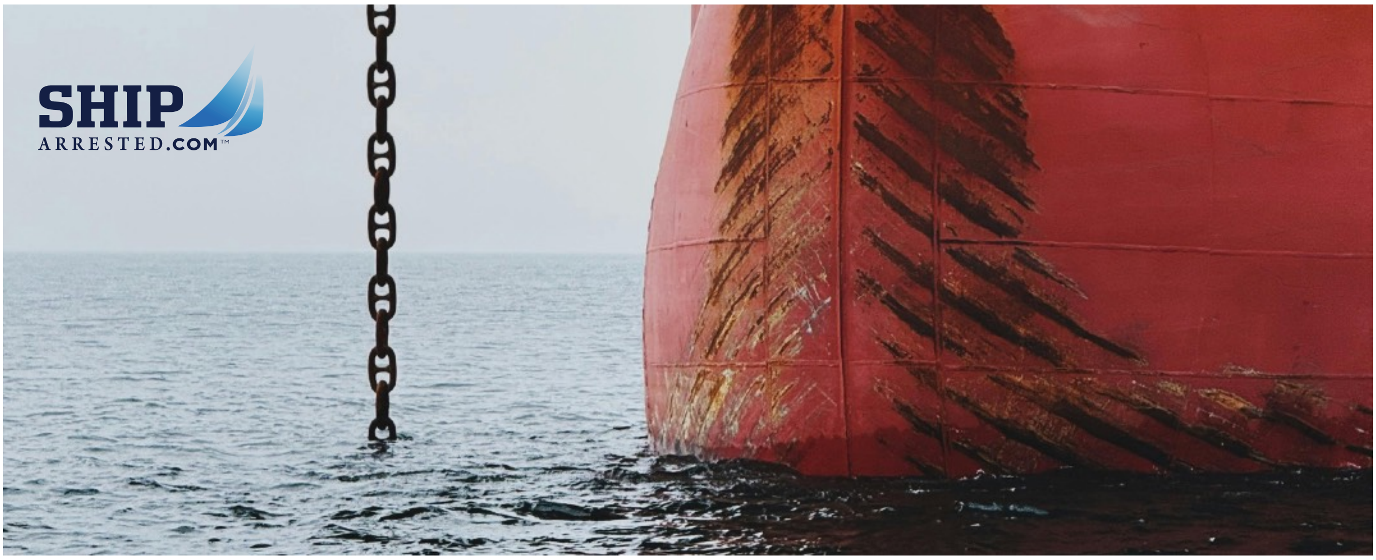

In this issue of *The Arrest News:*

"Mobile Jurisdiction" in Ship Arrest Proceedings: A Landmark Ruling from Ravenna

by Alberto Batini, BTG Legal (Italy)

Background

The concept of jurisdiction in ship arrest proceedings under the International Convention relating to the Arrest of Sea-going Ships (Brussels, 10 May 1952) has traditionally been treated as a static question: either the vessel is within the territorial jurisdiction of the court at the time the application is filed, or it is not. A recent and remarkably innovative ruling by the Tribunale di Ravenna (Ordinance of 27 December 2025) has challenged that orthodoxy, raising — and answering — a question that practitioners across all 1952 Convention jurisdictions will want to consider carefully.

The Facts

A creditor holding a maritime claim within the meaning of Article 1 of the 1952 Convention filed a petition for *sequestro conservativo* (arrest for security) before the Tribunale di Ravenna. The maritime claim underlying the application arose out of a contract relating to the use or hire of a vessel — a category expressly listed under Article 1(1)(d) of the Convention. The procedural peculiarity was this: at the time the petition was filed, and at the time the court issued its *inaudita* *altera parte* order granting the arrest, the vessel was not yet within Italian territorial waters. It had not yet reached the port of Ravenna.

The vessel subsequently entered Italian waters and berthed at Ravenna, whereupon the arrest was enforced. In the course of the proceedings on validity, the respondent raised a preliminary objection going to the root of the court's power: it contended that Italian jurisdiction under the Convention was entirely absent, on the grounds that the vessel had not been present within Italian territory either at the time of filing or at the time of the order. The arrest, so the argument ran, was a nullity.

The Legal Issue

The point is not merely technical. Article 4 of the 1952 Convention provides that a ship may be arrested only by the authority of a court or other appropriate judicial authority of the Contracting State in whose jurisdiction the arrest is made. This provision has traditionally been understood to predicate jurisdiction on the physical presence of the vessel within the national territory of the arresting State. The question before the Tribunale di Ravenna was whether that presence must exist at the moment of the court's order — or whether jurisdiction could be established (or confirmed) by the vessel's subsequent arrival.

No precise Italian authority directly on point under the Convention had previously addressed this scenario in published form. The case thus invited the court to engage in a principled construction of the 1952 Convention alongside the Italian rules on interim relief (*tutela cautelare*) as reformed under the *codice di procedura civile*.

The Decision

The Tribunale di Ravenna rejected the jurisdictional objection and upheld the validity of the arrest. Its reasoning was grounded in the Italian system of private international law — specifically, Law No. 218 of 31 May 1995 (*Riforma del sistema italiano di diritto internazionale privato*) — rather than in an autonomous construction of the Convention itself.

The court began by acknowledging the general principle of *perpetuatio iurisdictionis* enshrined in Article 5 of the *codice di procedura civile*, under which jurisdiction is determined by reference to the state of affairs existing at the time the proceedings are commenced. However, it noted that Article 8 of Law 218/1995 introduces a significant exception in the field of international jurisdiction: Italian jurisdiction subsists — or may be established — even where the facts and rules grounding it arise or materialise in the course of the proceedings, rather than at the moment of filing. This statutory provision effectively "mobilises" jurisdiction in cross-border cases, allowing a supervening fact to cure what would otherwise be a gap in the court's jurisdictional foundation.

Applied to the case at hand, the consequence was clear: the subsequent entry of the vessel into Italian territorial waters, and its berthing at the port of Ravenna after the arrest petition had already been filed, constituted precisely such a supervening jurisdictional fact within the meaning of Article 8 of Law 218/1995. The court held that this was sufficient to vest Italian jurisdiction for the purposes of the arrest proceedings.

The Tribunale further reinforced this conclusion by reference to Article 10 of the same Law, which provides that Italian courts have jurisdiction over precautionary measures where the measure is to be executed in Italy or where the Italian court has jurisdiction on the merits of the dispute. Since the arrest was to be enforced at Ravenna — Italian territory — this provision offered an independent and complementary basis for affirming jurisdiction, regardless of the vessel's position at the time of filing.

The combination of these two provisions of Law 218/1995 — the exception to *perpetuatio iurisdictionis* under Article 8, and the execution-based jurisdiction under Article 10 — furnished the court with a coherent doctrinal foundation for what may aptly be described as *giurisdizione mobile*: a jurisdiction that attaches not at a fixed procedural moment, but by reference to the evolving circumstances of an international case.

This reasoning is also significant because it clarifies the structural relationship between the Convention and Italian domestic law. The 1952 Brussels Convention governs the substantive conditions for arrest — the requirement of a maritime claim under Article 1, the rules on sister-ship arrest under Article 3, the release upon security under Article 5 — but it does not purport to provide a self-contained code of civil procedure. The *lex fori* fills the procedural gaps, and in Italy that means the *codice di procedura civile* as qualified by Law 218/1995 in all matters touching international jurisdiction. The Ravenna court's recourse to domestic private international law rules is thus methodologically orthodox: it is the Convention itself, read as a whole, that invites this exercise.

Why This Case Matters

The Ravenna ruling addresses a scenario that arises with some regularity in practice: a claimant becomes aware that a vessel associated with a maritime debt is expected to call at a national port, but may file the arrest application before the vessel actually enters port, for fear of losing the opportunity if the vessel changes its itinerary. Until now, the conventional (and cautious) advice has been to wait for confirmed entry into territorial waters before filing. The Ravenna decision suggests that — at least in the Italian forum — filing in anticipation of an imminent arrival may not be fatal to jurisdiction, provided the vessel does in fact arrive before validity is finally determined.

This has potentially significant implications for the strategy of maritime creditors and their counsel. It also raises interesting questions for other 1952 Convention jurisdictions. The Convention itself is silent on the precise temporal requirements for the presence of the vessel; the matter is left to national procedural law, which Italy has now addressed — albeit, as yet, only at first instance — in a notably flexible direction.

Open Questions

The decision leaves several issues for future consideration. First, what is the outer temporal limit of the "mobility" of jurisdiction? If the vessel never arrives, or arrives only after a final ruling adverse to the claimant has been rendered, can jurisdiction be retrospectively established? The Ravenna court was careful to confine its reasoning to the facts before it — supervening presence before the proceedings had concluded. Second, how does this principle interact with Article 7 of the Convention, which allocates jurisdiction over the merits to the court of the State in which the arrest is made? A court that acquires arrest jurisdiction through subsequent vessel presence may face additional arguments about its power to rule on the underlying claim.

Third, and perhaps most importantly, would Italian appellate courts — and ultimately the *Corte di Cassazione* — endorse this reading? The principle of *perpetuatio jurisdictionis* under Italian law is not without limits, and its transposition into the Convention framework deserves careful scrutiny.

Conclusion

The Tribunale di Ravenna's December 2025 ruling represents a thoughtful and practically significant contribution to the Italian law of ship arrest. By embracing a dynamic rather than static concept of jurisdiction under the 1952 Convention, it aligns the legal framework more closely with the commercial reality of maritime operations. Whether this approach will be confirmed on appeal, and whether it will find resonance in other Convention States, remains to be seen. What is certain is that it will feature prominently in the strategy of any maritime creditor contemplating an arrest in an Italian port — and in the defence toolkit of any shipowner or P&I Club seeking to challenge it.

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Crew Claims on Superyachts by International and Turkish Legal Framework by Caglanur Yeniaras, Mare Legal (Türkiye)

I. Introduction

Superyachts occupy a unique and sometimes uncomfortable place in maritime law. They are ships in every technical sense; they sail international waters, employ professional crew under formal employment contracts and carry the flags of recognised maritime states. Yet they have historically been treated as standing apart from the mainstream of commercial shipping, exempt from many of the regulatory frameworks that govern trading vessels.

This ambiguity has consequences. When a superyacht's crew goes unpaid -*a situation that arises more frequently than the industry would like to acknowledge*- the question of which legal framework applies is not always straightforward. Does the Maritime Labour Convention 2006 cover this vessel? Does a maritime lien arise? Which court has jurisdiction, and on what basis?

This article examines those questions from both an international and Turkish law perspective. It argues that crew members on superyachts are better protected than is sometimes assumed, provided that their legal representatives act with a clear understanding of the applicable framework and with the urgency that these situations demand. Turkish law, in particular, offers effective tools that have been confirmed in recent appellate decisions, and Turkiye's position as a major superyacht destination makes those tools practically significant for the wider maritime community.

II. The International Legal Framework

1. Maritime Liens for Crew Wages

A maritime lien is a privileged claim against a vessel that arises automatically by operation of law, without registration, and that survives a change of ownership. For crew members, this is the most fundamental form of legal protection: whatever happens to the owner, the lien attaches to the ship itself.

The International Convention on Maritime Liens and Mortgages 1993 (the "1993 Geneva Convention") places crew wage claims in the second-highest priority category among maritime liens, ranking only behind claims for loss of life or personal injury.[1] This priority is not accidental. It reflects a deliberate policy: seafarers, who often have limited bargaining power and who depend entirely on their employer for accommodation and repatriation, deserve strong protection against an employer's insolvency or disappearance.

2. The Maritime Labour Convention 2006

The Maritime Labour Convention 2006 (MLC 2006) (often described as the "seafarer's bill of rights") entered into force in August 2013 and significantly strengthened the legal framework for crew protection. It requires shipowners to ensure that wages are paid regularly and in full and to provide crew members with accessible grievance and dispute resolution procedures.[2]

Critically for the superyacht sector, MLC 2006 also requires flag states to ensure that ships carry proof of financial security, in practice insurance or an equivalent instrument, that can be drawn upon directly by unpaid crew. This mechanism operates independently of any court proceedings and can provide a faster route to recovery in some circumstances.

However, MLC 2006 contains an important exclusion: it does not apply to ships navigated exclusively for pleasure.[3] This exclusion is the source of considerable uncertainty in the superyacht industry, because many vessels do not fall clearly on one side of the line.

[1] International Convention on Maritime Liens and Mortgages 1993, Article 4(1)(b).

[2] Maritime Labour Convention 2006, Regulations 2.1, 2.2 and 2.5.

[3] MLC 2006, Article II(1)(i); vessels "navigated exclusively for pleasure or sport" fall outside the definition of "ship" for Convention purposes

3. The Pleasure/Commerce Distinction

The question of whether a given superyacht falls within or outside MLC 2006 is not determined by the owner's intentions or by how the vessel is described in its registration documents. It is determined by how the vessel is actually used.

A yacht employed solely for the private enjoyment of its owner, generating no revenue and carrying no paying guests, is a pleasure vessel outside the scope of MLC 2006. The same yacht, placed under a commercial charter arrangement and earning income, is a commercial vessel. The difficulty is that many superyachts operate in both modes, sometimes within a single season. They may be privately used for part of the year and commercially chartered during peak season. Their crew may work under employment contracts that reflect MLC 2006 obligations, or contracts deliberately structured to avoid them.

The vessel's MLC certification, its Large Yacht Code status, its charter history, and the nature of its employment documentation all bear on the question. A yacht that is certified for commercial operation, habitually chartered, and employing professional crew under standard maritime employment agreements will generally be treated as a commercial vessel regardless of how the owner labels it.

Where MLC 2006 applies, its financial security provisions add an important layer of protection on top of the maritime lien. Where it does not, the crew must rely on the “Lien Maritime Right” alone but, as discussed below, that remains a powerful remedy.

III. The Turkish Legal Framework

1. Turkiye's Position Under International Law

Turkiye has acceded to the International Convention on Maritime Liens and Mortgages 1993, and its provisions have been incorporated into the Turkish Commercial Code (Türk Ticaret Kanunu, "TCC"), which entered into force in 2012. However, Turkiye has not ratified the Maritime Labour Convention 2006. Accordingly, while the maritime lien framework fully applies within Turkish jurisdiction, the Convention’s financial security regime does not.

2. Maritime Claims and the Arrest Jurisdiction

Under Article 1352 of the TCC -which mirrors the structure of the 1993 Geneva Convention- a vessel may be arrested in Turkish waters only in respect of recognised maritime claims. The list of qualifying claims is exhaustive. Article 1352(1)(o) expressly includes wages and other sums due to the ship's crew in respect of their employment on the vessel, including costs of repatriation and social insurance contributions.[4] This provision applies regardless of the flag the vessel flies or the nationality of the crew members. A foreign-flagged superyacht in Turkish waters whose crew have unpaid wages is fully subject to this jurisdiction.

3. The Maritime Lien Under Turkish Law

Under Article 1389 of the TCC, crew wage claims give rise to a statutory maritime lien (rehin hakkı) of the second priority rank. Its existence is not affected by a change in ownership of the vessel, and it ranks ahead of registered ship mortgages.

4. The Arrest Procedure: Ihtiyati Haciz

A crew member wishing to arrest a vessel in Turkish waters must apply to the competent court for an order of precautionary attachment (ihtiyati haciz). This application is made *ex parte*, that is, without notice to the shipowner, and the court may act with considerable speed where the urgency of the situation requires it.

Turkish procedural law applies a prima facie or approximate proof standard (yaklaşık ispat): the claimant must show that the maritime claim is sufficiently credible and that there is a risk the debt will not be recoverable without interim relief.[5] In practice, this means that well-organised documentary

[4] Turkish Commercial Code (Law No. 6102), Article 1352(1(o).

[5] TCC, Article 1362.

evidence, i.e. employment contracts, wage records, payslips, crew declarations and any relevant correspondence, will typically satisfy the threshold.

5. Bareboat Charter and the Question of Operator Liability

A question that frequently arises in superyacht disputes is whether a maritime lien attaches to the vessel where the employment relationship was with a bareboat charterer (çıplak gemi kiracısı) rather than with the registered owner. Under Article 1320 of the TCC, a bareboat charterer is treated as the operator (donatan) of the vessel for the purposes of maritime liability, and claims arising from the operation of the vessel during the charter period may be enforced against the vessel itself, even where the registered owner was not a party to the employment contract. This provision is important in the superyacht sector, where the vessel's registered owner is often a holding company or special purpose vehicle that has chartered the yacht to a separate operating entity.

IV. Turkish Court Practice: Recent Appellate Decisions

The framework described above has been applied and confirmed in recent decisions of the Istanbul Regional Court of Appeal (İstanbul Bölge Adliye Mahkemesi), which offer useful guidance on how Turkish courts approach crew wage claims in practice.

Decision 1: Istanbul Regional Court of Appeal, 14th Civil Chamber, E. 2022/217, K. 2022/253, 03.03.2022

This case involved a crew member who had worked on two vessels operated by the same respondent and claimed wages for a period of over two years. The first-instance court had granted precautionary attachment over the vessel. The respondent challenged that decision, arguing that the employment contracts were forged and that the contractual arrangements did not establish liability on its part.

The appellate court dismissed the challenge. It confirmed that under Article 1352(1)(o) of the TCC, crew wage claims are recognised maritime claims for which precautionary attachment is available, and that the relevant standard of proof is approximate proof (yaklaşık ispat), not full evidential proof on the merits. The court found that the employment contracts, which bore the vessel's official stamp and had been signed on behalf of the operator by the master -a practice expressly permitted under Turkish maritime law- were sufficient to satisfy that standard.

Decision 2: Istanbul Regional Court of Appeal, 13th Civil Chamber, E. 2022/1202, K. 2022/995, 16.06.2022

This case raised the question of what level of evidence is sufficient to satisfy the approximate proof standard when the debtor presents counter-evidence at the objection stage.

The crew member had supported the precautionary attachment application with an employment contract, social security exit records, and passport entries. The respondent countered with vessel logbook entries purporting to show that the claimant had left the vessel of his own accord, together with payment records. The first-instance court had rejected the objection, and the appellate court upheld that decision.

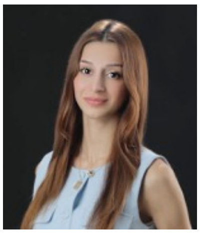
On the evidentiary conflict between the logbook entries and the social security and passport records, the court found the latter more reliable: logbook entries submitted by the shipowner at the objection stage but inconsistent with official state records and with other documents submitted at the same time carried less weight. Documents submitted for the first time at the appellate stage that had not been before the trial court, and that contradicted earlier submissions, were disregarded entirely.

The decision also addressed the mechanism for release of the arrested vessel. Under Article 1371(1) of the TCC, the owner or operator may obtain release by providing security for the full claimed amount, interest, and costs. However, the court confirmed that once enforcement proceedings have commenced, this application must be directed to the enforcement court rather than the civil court -a procedural point that practitioners should keep in mind to avoid unnecessary delay.

V. Conclusion

The superyacht sector has long operated with a degree of regulatory informality that reflects its origins as a world of private leisure rather than commercial shipping. That informality has sometimes left crew members without the protections they deserve. The law, properly applied, tells a different story. Crew wage claims give rise to maritime liens of the highest priority under both international and Turkish law.

However, superyachts are highly mobile. A vessel in Turkish waters today may be in a different jurisdiction within days. The window for obtaining a departure prohibition or precautionary attachment order is narrow, and it closes the moment the vessel leaves Turkish territorial waters. Legal proceedings should be commenced as soon as the crew's claims can be sufficiently documented.



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Vessel Detention in Egypt

by Soliman Advocates

Introduction

What may begin as a routine port call in Egypt can rapidly evolve into a complex legal situation with significant operational and financial consequences.

A vessel may be prevented from sailing, arrested, or even subject to criminal detention — reflecting the practical realities of maritime operations in Egyptian ports.

Three Types of Vessel Detention

In practice, vessel detention in Egypt falls under three main legal regimes:

- Administrative detention
- Ship arrest
- Criminal detention

Each operates under a different authority and serves a distinct legal purpose.

Administrative Detention

Administrative detention is typically imposed by port authorities due to unpaid dues, regulatory breaches, or documentation issues.

It is usually immediate in effect and can be lifted upon compliance or settlement of outstanding obligations.

Ship Arrest

Ship arrest is a civil procedure used to secure maritime claims.

Under Egyptian law, a vessel may be arrested as security even where Egyptian courts may not have jurisdiction over the merits of the dispute.

Release is generally subject to cash deposit or court-accepted guarantees, depending on the discretion of the court.

Criminal Detention

Criminal detention arises in cases involving alleged criminal offences, such as smuggling, drug-related incidents, or environmental violations.

This may lead not only to the detention of the vessel, but also to the arrest of crew members and the imposition of travel bans.

Additional Legal Considerations

- Hot Pursuit

In certain circumstances, jurisdiction may extend beyond territorial waters under applicable legal principles.

- Confiscation

In serious cases, authorities may order the confiscation of the vessel, resulting in total loss.

- Travel Bans

Crew members may be subject to travel bans pending investigation or legal proceedings.

For Maritime Creditors

Timing is critical.

In practice, administrative detention may create a strategic opportunity for creditors to initiate vessel arrest proceedings and secure their claims.

Conclusion

Vessel detention in Egypt operates within a layered and multi-authority framework.

In Egypt, the real risk is not detention itself — but misunderstanding how and when it may arise.

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Cargo Liens in the UAE: Enforcement, Procedure and Strategic Considerations

by Mohamed El Hawawy & Mahmoud El Sayed, Stephenson Harwood Middle East LLP

Under UAE law, a shipowner is generally not entitled to detain cargo on board a vessel at the discharge port solely due to the non-payment of freight or hire. However, the UAE maritime regime affords significant weight to the principle of party autonomy in the context of charterparties. Where a charterparty expressly provides for a right of cargo lien, shipowners may rely on such provisions to secure claims for freight, hire, demurrage and other contractual sums, as the parties are free to agree terms that depart from certain non-mandatory provisions of the UAE Maritime Law.

While the legal framework recognises the existence of cargo lien rights, their enforcement in the UAE is not automatic or self-executing. Rather, it is a court-supervised process that requires timely judicial intervention and careful operational planning. Understanding the interaction between contractual lien provisions and the applicable procedural requirements is therefore essential for shipowners seeking to preserve and enforce their security.

The legal basis for cargo liens is set out in Article 133 of the UAE Maritime Law, which confirms that cargo shipped on board a chartered vessel serves as security for the payment of freight and related charges. The provision makes clear that shipowners are not entitled to take unilateral action against the cargo upon arrival (unless agreed otherwise). Rather, they must file an *ex parte* application before the Summary Judge to seek appropriate relief, including the discharge of the cargo into shore tanks, imposing an attachment on it or requesting its sale where payment has not been made and no adequate security is provided. Notably, the law preserves the lien even where the cargo is mixed with other goods.

A key feature of the UAE maritime regime is the degree of contractual autonomy afforded to the parties. Article 130 permits parties to agree terms that modify certain non-mandatory provisions of the UAE Maritime Law, while Article 131(4) provides that charterparty terms govern the relationship between the shipowner and charterer but are not enforceable against third parties unless they had knowledge of those terms. Accordingly, while the statutory lien provides a basis for protection, its scope and effectiveness will often depend on the wording of the charterparty and its incorporation into the bill of lading. This highlights the importance of carefully drafted lien clauses that expressly cover freight, demurrage and related claims, and are consistently incorporated across contractual documents.

From a procedural standpoint, enforcing a cargo lien in the UAE requires the commencement of an *ex parte* application before the competent court, typically in the jurisdiction where the vessel is located. The shipowner can also apply to the Summary Judge seeking precautionary attachment over the cargo, as well as authorisation to discharge it, place it under third-party custody, and, where necessary, proceed to judicial sale with the proceeds to be deposited in the court treasury. A notable practical element of this process is the expectation that the applicant will have made prior arrangements for the discharge and storage of the cargo. UAE courts are likely to require a clear and workable logistical plan, including the identification of suitable storage facilities, before granting such relief.

Once the application is filed, the Summary Judge will review it on an urgent basis and, in practice, a decision is typically issued within a relatively short timeframe. Upon issuance of the order, enforcement is carried out under the supervision of Emirates Judgment Enforcement, which acts as the court-appointed bailiff. The court may also appoint an independent expert to assess the cargo, including its quantity and condition, and to facilitate the enforcement process. It is generally the applicant who is directed to advance the expert's costs at this stage. Where payment remains outstanding, a further application shall be submitted to seek the sale of the cargo through public auction, with notice given to the opposing parties and proceeds secured through the court.

An important procedural requirement is that the shipowner must initiate substantive proceedings, whether through arbitration or litigation, within eight days of obtaining the precautionary attachment order. Failure to comply with this requirement may result in the attachment being lifted, thereby depriving the shipowner of its security. At the same time, charterers and consignees retain the right to provide security to secure the release of the cargo pending the conclusion of the substantive case. Such challenges are heard on an *inter partes* basis and may extend the overall timeline of the proceedings, including the right of consignees and/or charterers to apply arrest against the vessel as security for any potential claims for illegal exercise of the lien by the shipowners or for any claim they may have against the shipowners.

In practical terms, while the statutory framework provides a clear pathway, the enforcement of cargo liens remains relatively novel in the UAE and is not yet widely tested before the courts. Nonetheless, recent experience demonstrates that, with proper preparation and coordination, the mechanism can be effectively implemented. In this regard, Stephenson Harwood successfully obtained two cargo lien enforcement orders over cargo on board a vessel, including one instance where the cargo was owned by a third party rather than the charterer. In that case, the bills of lading incorporated the terms of the charterparty, including the cargo lien provisions, thereby establishing the consignee's awareness of those terms and entitling the shipowner to seek enforcement of the cargo lien.

Considering the above, shipowners are well advised to adopt a strategic and proactive approach when seeking to rely on cargo lien rights in the UAE. This includes ensuring that charterparty clauses are robust and expressly drafted to cover all relevant claims, that such clauses are properly incorporated into bills of lading, and that operational arrangements are in place before seeking judicial intervention. Equally important is the need to act promptly within the statutory timeframe and to comply with procedural requirements.

While the UAE Maritime Law provides a clear and structured basis for cargo liens, their effectiveness ultimately depends on the interplay between statutory rights, contractual drafting and procedural execution. As practice in this area continues to develop, a well-prepared and coordinated approach remains essential for shipowners seeking to preserve and enforce their security.

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New Jurisprudence in the Arrest of Vessels Over Contested Possession Claims: Issues and Challenges by Manisha Tiwari, Shail & Partners (India)

In Brief

1. Can a shipowner arrest his own vessel? The Gujarat High Court's recent decision in *M.T. Anafi* raises precisely this question and challenges several settled assumptions underpinning ship arrest jurisprudence.

2. By recognising a possessory claim brought by the vessel's owners and ordering the arrest of the vessel itself, the Court has potentially expanded the traditional function of admiralty arrest beyond securing maritime claims to preserving the res and maintaining judicial control over vessels wrongfully withheld.

3. This article examines the doctrinal and practical implications of the decision, explores whether Indian law now permits owners to invoke arrest in contested possession disputes, and considers how *M.T. Anafi* may reshape the remedies available to shipowners, financiers, P&I Clubs and other stakeholders confronted with disputes over control and possession of vessels.

Introduction

In a peculiar decision that calls into question several theoretical underpinnings of ship arrest jurisprudence, the High Court of Gujarat in *BSL MGC Ltd. & Anr. v. MT Anafi (IMO No. 9411733) & Anr.* (2026) ("**MT Anafi**") permitted the arrest of a vessel pursuant to a claim brought by its owners on account of the Master's alleged adverse possession of the vessel. The Court recognised the claim as one relating to the possession of a vessel under the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 ("**Admiralty Act**") and consequently ordered the arrest of the vessel. The dispute arose when the

Master of the Defendant vessel refused to relinquish possession upon the expiry of the charterparty under which he had been employed. By the time the claim was instituted, the vessel had already been sold by its former owners and registered under a new flag. Since the plaintiffs comprised both the previous and the new owners, the proceedings effectively presented the unusual spectacle of a vessel being arrested at the instance of its own owners, thereby raising important questions concerning the nature of possessory claims and the conceptual limits of actions *in rem*.

The Peculiartities & Possible Reconciliation

1. Can an owner arrest his own vessel?

As a matter of principle, a shipowner cannot arrest his own vessel. An action *in rem* is traditionally directed against the *res* as security for a maritime claim enforceable against the vessel or her owner. It presupposes a separation between the Claimant and the proprietary interest represented by the ship. Admiralty arrest is therefore conceptually distinct from ordinary proprietary remedies and is not intended to permit an owner to proceed against his own asset.

Nevertheless, several situations arise in practice which, while resembling self arrest, do not offend this principle. First, where a vessel is bareboat chartered, the demise charterer may be regarded as the beneficial owner. Consequently, if the registered owner has a claim against the demise charterer, proceedings *in rem* against the vessel may be permissible because the claimant is proceeding against an interest legally distinct from his own. Secondly, a mortgagee holding a registered mortgage may arrest the vessel notwithstanding that the title remains vested in the mortgagor. Here, the mortgagee and the owner constitute separate legal persons, and the arrest is entirely consistent with the law.

Under Indian law, an action *in rem* lies against a vessel in respect of maritime claims recognised under the Admiralty Act. Since the claimant and owner are ordinarily distinct, the owner cannot generally maintain an action *in rem* against his own vessel.

2. *Could an expanded interpretation of possessory claims allow an owner to arrest his own vessel?*

As iterated above, the Court in *MT Anafi* recognised the owners' maritime claim falling under Section 4(1)(a) of the Admiralty Act. This Section relates to a "dispute regarding the possession or ownership of a vessel or the ownership of any share therein." Further, Section 5(1)(d) of the Admiralty Act allows the Admiralty Court to arrest a vessel when "the claim relates to the ownership or possession of the vessel." The rather general wording in both sections of the Admiralty Act could potentially be interpreted to allow an owner to institute a claim against his own vessel over possessory interests. In essence, it may be argued that the owners invoked admiralty jurisdiction to recover possession of a vessel that was allegedly being wrongfully detained by another person. This argument reconciles the Court's decision with the doctrinal principles of admiralty law.

Unlike conventional maritime claims such as claims for freight, damage, wages, or necessaries, claims relating to the ownership or possession of a vessel are conceptually distinct because the vessel itself constitutes the subject matter of the dispute. Consequently, arrest in such cases serves not merely as a mechanism for obtaining security, but as a means of preserving the *res* pending adjudication. This distinction has long been recognised in English admiralty practice, where actions *in rem* for title or possession formed a separate class from actions *in rem* brought to secure maritime claims. In light of this, the Court's decision in *MT Anafi* is better characterised as recognising that a person asserting ownership or possessory rights over a vessel may invoke admiralty jurisdiction and seek the arrest of the vessel where the vessel itself constitutes the subject matter of the dispute and arrest is necessary to preserve the *res*, rather than merely to secure a monetary claim. The more interesting question then becomes whether section 4(1)(a) permits an action *in* *rem* where there is no rival claim to title or possession, but only a wrongful withholding by an agent or servant. If the answer is yes, as *M.T. Anafi* appears to suggest, then Indian admiralty law may have expanded the traditional understanding of possessory actions beyond their English origins.

3. *Could arrest be more than just an enforceable remedy to secure a claim?*

Traditionally, admiralty arrest has been understood primarily as a security device, intended to secure a claimant's maritime claim against the vessel or its owner. The decision in *M.T. Anafi*, however, arguably broadens this traditional conception by recognising arrest as a means of preserving the *res* and preventing the vessel from sailing out of the jurisdiction. By permitting the arrest of the vessel in the context of a possessory dispute arising from the Master's alleged wrongful retention of the ship, the Court effectively employed arrest not merely as a security-oriented remedy, but as an instrument for maintaining judicial control over the subject matter of the dispute. In doing so, the Court may be said to have expanded the functional scope of admiralty arrest in Indian law beyond its conventional role of securing maritime claims.

Conclusion

Traditionally, admiralty arrest has been understood primarily as a security device intended to secure a claimant's maritime claim against the vessel or its owner. The decision in *M.T. Anafi*, however, arguably broadens this traditional conception by recognising arrest as a means of preserving the *res* and preventing the vessel from sailing out of the jurisdiction. By permitting the arrest of the vessel in the context of a possessory dispute arising from the Master's alleged wrongful retention of the ship, the Gujarat High Court effectively employed arrest not merely as a security-oriented remedy, but as an instrument for maintaining judicial control over the subject matter of the dispute. In doing so, the Court may be said to have expanded the functional scope of admiralty arrest in Indian law beyond its conventional role of securing maritime claims.

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Malaysia: A Strategic Jurisdiction for Ship Arrest, Maritime Enforcement & Asset Recovery by Rahayu Abd Ghani, Rahayu Partnership

Why Malaysia Matters for Maritime Claims

Malaysia offers a well-established and commercially practical framework for ship arrest, maritime claims enforcement, and recovery of maritime debts.

Located along the Straits of Malacca, one of the world's busiest shipping routes, Malaysia provides a strategically positioned jurisdiction for claimants seeking timely enforcement when vessels call at key ports such as Port Klang and Tanjung Pelepas.

In many cases, enforcement opportunities arise within narrow vessel call windows, making early legal coordination critical.

1. Ship Arrest in Malaysia: Structured and Effective

Malaysia's admiralty jurisdiction allows claimants to bring *in rem* actions directly against vessels, supported by a legal framework aligned with English admiralty principles.

For parties seeking ship arrest in Malaysia or maritime debt recovery, the jurisdiction offers a procedurally efficient and cost-competitive option, subject to proper claim structuring.

Key Features

(a) Arrest for claims including bunkers, charterparty disputes, crew wages, and mortgages

(b) Availability of sister ship arrest

(c) Ex parte arrest procedures for urgent security

Recent Case Law

MECK Petroleum DMCC v The Owners of the "Global Falcon" [2024]

The High Court set aside an arrest after finding that the fuel supplied did not qualify as goods supplied for the vessel's operation, as it was treated as cargo rather than bunkers.

Practical significance:

This reinforces the importance of accurate legal characterisation of claims, with Malaysian courts applying a disciplined and structured approach to admiralty jurisdiction.

2. Arrest as Security for Arbitration: A Calibrated Approach

Malaysia distinguishes between:

(a) Arrest for litigation (generally available), and

(b) Arrest to secure arbitration claims (subject to judicial discretion)

Key Case

Unicious Energy v The "Alpine Mathilde" [2023]

The High Court clarified that arrest to secure arbitration:

(a) Is not automatic

(b) Requires full and frank disclosure

(c) May be set aside if improperly invoked

Strategic insight:

Where properly structured under the Arbitration Act 2005, Malaysian courts remain receptive—making early legal positioning critical.

3. Enforcement of Foreign Arbitration Awards

Malaysia is a pro-arbitration jurisdiction under the New York Convention, with courts adopting a pro-enforcement stance.

Key Development

ING Bank NV & OW Bunker v Tumpuan Megah (Federal Court, 2025)

The Federal Court confirmed:

(a) Dual enforcement routes are available:

(i) Arbitration Act 2005

(ii) Reciprocal Enforcement of Judgments Act (REJA)

(b) Courts adopt minimal review and do not re-hear merits

Commercial impact:

Award creditors can deploy flexible, multi-route enforcement strategies to maximise recovery.

4. Judicial Sale of Vessels

Malaysia provides a robust framework for judicial sale, offering:

(a) Transfer of clean title free from encumbrances

(b) Court-supervised transparency

This is attractive for buyers of distressed vessels and maritime assets.

5. Maritime Asset Opportunities

Malaysia presents opportunities in:

(a) Offshore and support vessels

(b) Distressed maritime assets

(c) Shipyard and logistics investments

6. Why Engage Malaysian Maritime Counsel

Effective enforcement depends on:

(a) Proper invocation of admiralty jurisdiction

(b) Accurate claim structuring

(c) Strategic handling of procedural requirements

Our Approach

We focus on execution-ready strategy, including:

(a) Pre-arrest jurisdictional stress testing

(b) Coordination with port authorities and surveyors

(c) Rapid deployment aligned with vessel call schedules

We regularly assist instructing solicitors on short-notice arrest actions tied to vessel calls in Malaysian ports.

Conclusion

Malaysia remains a credible and strategically located enforcement jurisdiction, offering:

(a) Structured admiralty framework

(b) Evolving case law

(c) Commercially pragmatic courts

For maritime stakeholders, success in Malaysia depends on timing, structuring, and execution.

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Rahayu Partnership services include Ship arrest & release, Admiralty litigation, Enforcement of arbitration awards, Maritime debt recovery, Judicial sale & asset acquisition

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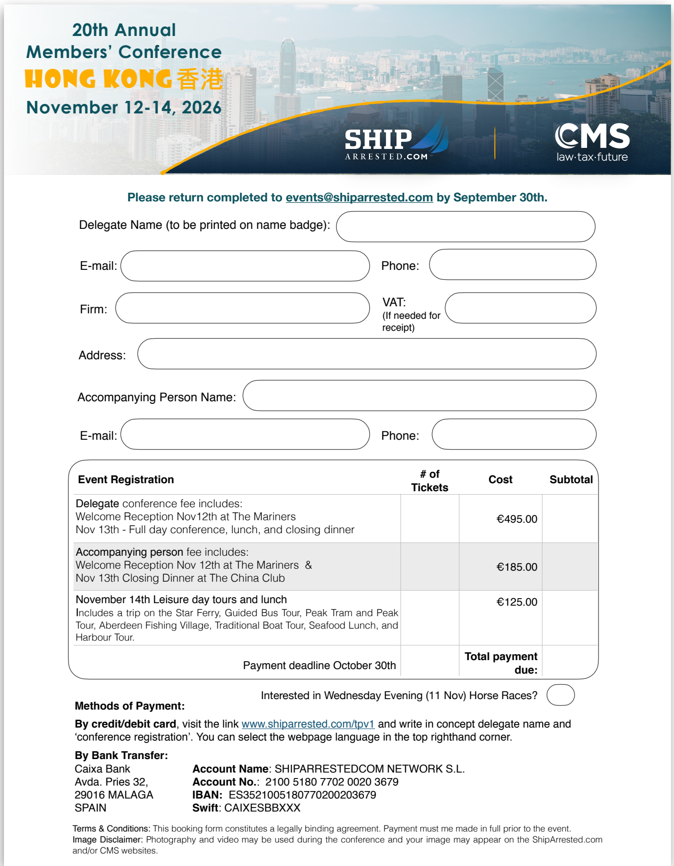

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