



RESPONSE BY THE ROMANIAN MARITIME LAW ASSOCIATION TO THE QUESTIONNAIRE #1 – VESSEL NOMENCLATURE

1. Is there a statutory, regulatory or other definition in your legal system which conveys a meaning similar to the above definition of either "Vessel" or "Ship"? If so, which is (are) the terms and their corresponding definitions?

Romania: According to art. 23(a) from the Government Ordinance no. 42/1997 the definition of vessel is as follows: *“maritime and inland waterway vessel of any type, powered or non-propelled, sailing on the surface or immersion, designed to carry goods and / or people, fishing, towage or pushing and other water activities. The following are part of vessel: installations, machines and engines powering the vessel or cause other mechanical action, together with the mechanisms and means of transmission of this action, all necessary equipment navigation, various maneuvers, safety of the ship, saving life, pollution prevention, communications, hygiene and the intended operation of the vessel and supplies”.*

2. In your system, does the definition of "vessel" (or equivalent term) vary depending on the subject of a particular law? For example, does the definition differ for purposes of documentation, registry, flagging and mortgaging or when applied to seagoing labor, environmental, casualty, insurance or taxation law?

Romania: No.

3. Does your legal system provide for a unique process of seizure, foreclosure, forced sale or ranking and priority of claims against vessels that is different from such processes for other types of property? If so, please explain.

Romania: No. According to the recent legal developments (the entry into force of the New Civil Procedural Code), the process of seizure, foreclosure, forced sale or ranking and priority of claims against vessels is the same for other types of similar property (moveable property). Nevertheless, Romania is a party to the 1926 Liens and Mortgages Convention and thus the ranking and priority of claims mentioned in the Convention applies.

4. Has the 1993 Convention on Maritime Liens and Mortgages ("MLM-93") been adopted or followed in your jurisdiction?

Romania: No. Romania is a party to the 1926 Liens and Mortgages Convention.

5. In your jurisdiction is the acceptance by a registrar or other governmental body of property as a "ship" or "vessel" or equivalent term dispositive of its status under your law?

Romania: No.



6. If property is categorized as a "vessel" in another jurisdiction and is so registered and flagged, but would not be a vessel under the definition in your jurisdiction, would the courts or relevant authorities in your jurisdiction treat that property as a vessel for all purposes, including arrest and foreclosure? Or would the Courts in such a circumstance decline to enforce an asserted claim or mortgage if the subject is not a vessel under your jurisdiction?

Romania: There is no case law of the Romanian Courts that can determine their position on this issue. However, we believe that if such an issue may arise, the Court would consider the ship to be categorized as moveable property and if sufficient evidence that this vessel is owned by the debtor is provided by the claimant, than the arrest/foreclosure would be granted by the Court.

7. Are there any reported decisions in your jurisdiction which address the legal classification of any of the following property:

- 1. non-self-propelled barges**
- 2. self-propelled barges**
- 3. accommodation barges**
- 4. Mobile Offshore Drilling Units**
- 5. wind turbine towers (floating or permanently fixed)**
- 6. jack up drill rigs**
- 7. construction barges**
- 8. submarines**
- 9. seaplanes**
- 10. hydroplanes (air cushion)**
- 11. Vessels under construction**
- 12. unmanned vessels**
- 13. Vessels devoted temporarily or permanently to storage of bulk commodities**
- 14. Vessels in "cold layup"**
- 15. Derelict Vessels or "Dead Ships"**
- 16. Vessels under Conversion or Renovation.**

If there are any reported decisions on the foregoing, please attach copies. If there are numerous decisions, please attach the most recent or most indicative of your national court's views.

Romania: There aren't any Romanian Court decisions which address the legal classification of any of the above mentioned property.

8. We attach a most excellent summary by Professor Billent Sozer of Istanbul regarding the variations in definitions, usages and limitations on application of terms in many international conventions. Please identify any of the Convention usages and limitations which are at variance with equivalent terms in your national system and explain the variations.



Romania: There are no variations between the Conventions mentioned by Professor Billent Sozer and the equivalent terms in the Romanian national law system.

9. Are there any instances involving your jurisdiction in which inconsistent or conflicting definitions of "vessels", "ships" or equivalent terms have impacted results in any legal proceeding of which you are aware? If so, please provide details.

Romania: No.

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