



Mortgages, maritime liens, retention and arrest

- *Professor Erik Røsæg*
- *Scandinavian Institute of
Maritime Law*
- *erik.rosag@jus.uio.no*
- *folk.uio.no/erikro*

Basic concepts



- *Mortgage*
- *Security ordered by a court*
- *Maritime lien*
- *Arrest*
- *(Bottomry)*

The Conventions



- *Liens and Mortgages 1967 and 1993*
- *Arrest 1952 and 1999*

The Contracts

- *Loan agreement*
- *Mortgage document*
- *Other security*
 - *Assignment of freight*
- *Cancellation clauses*
 - *NMC § 44*
 - *MAC clauses*
- *Control*
 - *Long term charterparties*
- *Accessories, NMC § 45*

Mortgages and registration

- *The main rule, NMC § 20*
- *Priority, NMC §§ 23-25*
- *Closing*
- *Encumbrances in non-ships*
 - *Ships under construction, NMC § 31*
 - *Non-ships, NMC § 33*
 - *Platforms, NMC § 507*
 - *Permanent installations*

Maritime Liens in vessels, NMC §§ 51 et seq.

- *Protected claims*
 - *Wages*
 - *Port dues*
 - *Personal injury claims*
 - *Property claims*
 - *Salvage rewards*
- *Priority*

Maritime Liens in cargo, NMC §§ 61 et seq.

- *Protected claims*
 - *Salvage Reward*
 - *Expenses in relation for cargo*
 - *Claims under the contract of carriage,
cf NMC §§ 269 and 292*

Time bars

- *Length*
- *Arrest, NMC § 55*
 - *Possibility of arrest, Dispute Act § 33-2*
- *Security to prevent arrest*
- *Arrest forum*
- *The Lugano/Brussels system*

Right of retention



- *NMC § 54*
- *Continuity*
- *Priority*
- *Relation to bankruptcy*

Maritime liens -the system



- *Liability of reder or owner*
- *Maritime lien or mandatory insurance*
- *Limitation*
- *Subrogation*
- *Relation to*
 - *Mortgagee*
 - *Hull insurer*

Enforcement of liens and mortgages

- *Forced ordinary sale*
- *Auction*
- *Forced use*
- *Agreements?*

Some remarks on common law

- *Arrest*
- *Lien*
- *Actions in rem, cp NMC § 137*

Choice of law and jurisdiction



- *Registered mortgages, NMC § 74*
- *Maritime Liens, NMC § 75*
- *Forced sale abroad, NMC § 76*

Arrest



- **Effects**
 - *Vessel is detained. Guarantees*
 - *Jurisdiction*
 - *Sale*
 - *Timebars*
- **Conditions**
 - *Maritime claim*
 - *Arrest necessary*
 - *Within jurisdiction*
 - *Limitation rules*
 - *Connection liability - ship*
- **Costs**