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The International Comparative Legal Guide to:

Shipping Law 2019

7th Edition

A practical cross-border insight into shipping law

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Country Question and Answer Chapters:

EDITORIAL

Welcome to the seventh edition of *The International Comparative Legal Guide to: Shipping Law*.

This guide provides corporate counsel and international practitioners with a comprehensive worldwide legal analysis of shipping laws and regulations.

It is divided into two main sections:

Seven general chapters, which explore topical issues affecting shipping law from a cross-border perspective.

Country question and answer chapters. These provide a broad overview of common issues in shipping laws and regulations in 44 jurisdictions.

All chapters are written by leading shipping lawyers and industry specialists, and we are extremely grateful for their excellent contributions.

Special thanks are reserved for the contributing editor Andrew Bicknell of Clyde & Co LLP for his invaluable assistance.

Global Legal Group hopes that you find this guide practical and interesting.

The *International Comparative Legal Guide* series is also available online at www.iclg.com.

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Poland

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1 Marine Casualty

1.1 In the event of a collision, grounding or other major casualty, what are the key provisions that will impact upon the liability and response of interested parties? In particular, the relevant law / conventions in force in relation to:

(i) Collision

Whether or not Polish substantive law applies to a particular collision is primarily determined by Regulation (EC) No. 864/2007 on the law applicable to non-contractual obligations (in particular, article 4).

Poland is a contracting state to three important pieces of legislation regarding collisions: (1) the Convention for the Unification of Certain Rules of Law with respect to Collisions between Vessels (Brussels 1910); (2) the 1972 Convention on the International Regulations for Preventing Collisions at Sea (COLREGs); and (3) the Convention on Certain Rules concerning Civil Jurisdiction in Matters of Collision (Brussels 1952). Conversely, the 1987 Lisbon Rules, drafted by the *Comité Maritime International* (CMI), are technically only persuasive since they are not law and are regarded purely as a set of guidelines that a court or tribunal might wish to take into consideration.

The provisions of the 1910 Collision Convention have been largely incorporated into the Polish Maritime Code, which, in addition to collisions between sea-going vessels or between sea-going vessels and vessels of inland navigation, also applies to collisions with seaplanes.

A vessel's liability for a collision is, both under the 1910 Convention and Polish Maritime Code, based on fault; however, the Code additionally provides specific examples of what should be regarded as the fault of the vessel (a violation of the COLREGs, or negligence in equipping the vessel, etc.). It is worth noting that collisions with objects such as wrecks, buoys or dolphins are generally not regarded as collisions as far as the Maritime Code is concerned and are thus out of the scope of the application of the Code. In such cases, the Polish Civil Code usually applies, and the vessel's liability will almost always be strict (no-fault liability).

(ii) Pollution

In terms of the liability for pollution damage, there are separate regulations that apply to (i) oil pollution, (ii) bunker pollution, and (iii) general pollution (other than from oil and bunkers).

Liability for general pollution is, in principle, governed by the Polish Maritime Code, which makes the vessel's actual operator (rather than the registered owner) liable for the pollution resulting from the carriage of goods, the operation of the vessel, or the dumping of waste and other matter at sea. This liability is strict and generally cannot be avoided unless the pollution was caused by an act of God, the exclusive wilful misconduct of a third party or the party that suffered the loss, or the improper maintenance of lights or other navigational devices by the responsible authorities. The liability for pollution is wide and includes damage suffered and the loss of profits, as well as the obligation to reimburse for various unavoidable costs related to the pollution. The authorities can additionally order the liable party to restore the environment to its original state prior to the damage.

Poland is also a contracting state to the International Convention on Civil Liability for Oil Pollution Damage (CLC) as amended by the 1992 Protocol (London), as well as the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (FUND Convention), including the latest 2003 Protocol. Additionally, the International Convention on Civil Liability for Bunker Oil Pollution Damage (BUNKER, London 2001) operates in Poland. All these legal acts have been additionally incorporated into the Polish Maritime Code.

Various domestic laws also apply, such as the 1995 Statute on the Prevention of Pollution from Ships, which, for example, allows the authorities the possibility of imposing fines on shipowners of up to one million SDR.

(iii) Salvage / general average

The Polish Maritime Code contains a separate chapter on salvage, but in most cases, the provisions of the 1989 International Convention on Salvage are applied since Poland has been a contracting state to this Convention since 2006. The Code is generally in line with the Convention and contains only minor differences (e.g., property under the Code includes not only freight at risk, but also passenger fees). Claims for salvage reward and the reimbursement of expenses are subject to a two-year limitation period from the date on which the salvage operation was finished.

There is also a separate chapter in the Code on the General Average, and the provisions therein are largely based on the York-Antwerp Rules (as drafted by the CMI). Where no contract was made regarding the adjustment of the general average, article 255 § 2 of the Code refers to "the rules commonly accepted in international trade". This regulation is deemed to be a reference to the Rules. Under the Code, claims resulting from the general average are subject to a two-year time-bar, which is interrupted when the notification of a claim is given to the general adjuster.

(iv) Wreck removal

Poland is not a contracting state to the 2007 Nairobi International Convention on the Removal of Wrecks. The Polish Maritime Code, and other acts, give the Polish maritime authorities the power to,

e.g., order a wreck removal at the expense of the owner or sell the wreck and use the proceeds to recover certain costs. The owner of the wreck is under a general obligation to notify the authorities (within six months from the day of the sinking) of the planned final date by which the wreck will be removed.

(v) Limitation of liability

Poland is a party to the 1976 Convention on the Limitation of Liability for Maritime Claims (LLMC) as amended by the 1996 Protocol. The Convention has also been incorporated into the Polish Maritime Code, which additionally regulates domestic matters; e.g., it prohibits the operation of Polish vessels that do not have a certificate of insurance confirming cover in respect of maritime claims. The Code also requires the Polish authorities to check (during a ship's inspection) whether such certificate is on board a vessel calling at a port in Poland.

(vi) The limitation fund

Limitation funds can be established in accordance with the provisions of the above-mentioned acts and the Polish Maritime Code. These funds comprise:

- a fund created in accordance with the LLMC;
- a fund based on the FUND Convention; and
- an additional fund created on the basis of the 2003 Protocol to the FUND Convention.

The Code provides for the exclusive jurisdiction of the District Court in Gdańsk to conduct proceedings in relation to limitation funds proceedings.

1.2 What are the authorities' powers of investigation / casualty response in the event of a collision, grounding or other major casualty?

Poland has recently established an investigative body, the Marine Accidents Investigation Commission (somewhat similar to the UK's MAIB). The Commission was created to fulfil the requirements of Directive 2009/18/EC concerning the principles governing the investigation of accidents in the maritime transport sector. The Commission carries out investigations regarding marine accidents and incidents on a "no-blame" basis, and has a very wide authority (including its access to evidence), but does not deal with the apportionment of liability.

The second authority that could be involved is the Maritime Chamber, which often considers the cause of accidents, and the possible apportionment of blame. It acts as a quasi-judicial body and issues final decisions upon the completion of proceedings (which can include evidence provided by witnesses, and the examination of log books, voyage data recorder (VDR) records, etc.).

Where loss of life, personal injury, or significant damage to the environment occurs, the investigative and prosecuting authorities can also become involved (in particular, the Police, Border Force, or Public Prosecutor).

2 Cargo Claims

2.1 What are the international conventions and national laws relevant to marine cargo claims?

Poland is a party to the Hague-Visby Rules (HVR) and has also ratified the 1979 Protocol (SDR). The 2008 UN Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea (the Rotterdam Rules) was signed by Poland in 2009, but has not yet been ratified.

In addition, the Polish Maritime Code contains regulations regarding a carrier's liability (hence, also including cargo claims) which are mainly based on the provisions of the HVR.

2.2 What are the key principles applicable to cargo claims brought against the carrier?

Cargo claims can usually be brought by the person entitled to receive the cargo. That person can either be the charterer, the person nominated by the charterer (where no bill of lading (B/L) has been issued) or the "legitimate holder" of a B/L. According to article 144 § 3 of the Polish Maritime Code, the legitimate holder of a B/L is:

- in the case of a straight B/L – the consignee named in the B/L;
- in the case of an order B/L – the person to whom the order of the B/L has been made out, or the endorsee; or
- in the case of a bearer B/L – the bearer of the B/L.

Cargo claims are made against the carrier envisaged in the contract of carriage, or (more often) those named in the B/L. If the B/L does not indicate the carrier, article 136 § 2 of the Maritime Code provides the presumption that the ship's operator is the carrier. If it is proved that the B/L names the carrier inaccurately or falsely, the ship's operator is responsible towards the consignee of the goods for any loss or damage resulting therefrom, but the operator will have recourse, in this respect, against the carrier.

The other rules set out in the Code are also generally in line with the HVR, including:

- the list of excepted perils (as in article 4(2) HVR);
- the paramount obligation to exercise due diligence to provide a seaworthy vessel;
- the exemption of the carrier from any liability for loss or damage to the goods, if the nature or value thereof has been knowingly misstated by the shipper in the B/L;
- the compensation for the lost/damaged goods being calculated by reference to the value of such goods (as per article IV(5)(b)); and
- the carrier being entitled to limit its liability (the limits being 666.67 SDR per package, or unit, or 2 SDR per kilogram of gross weight of the goods lost or damaged, whichever is the higher) when the value of the goods was not inserted into the B/L.

It is worth noting that when a B/L is issued for a particular carriage of goods, the carrier cannot limit or contract out of the liability as defined in the Code. If, however, a B/L has been issued for cargo shipped under a charterparty, then this restriction applies from the moment when the B/L was endorsed to the third party.

The Maritime Code provides a general two-year time-bar in relation to claims under the contract of carriage. However, cargo claims against a carrier based on a B/L are subject to a one-year time-bar from the date of the delivery of the goods, or the date when the goods should have been delivered.

The carrier is generally entitled to the defences and limits of liability provided for in the Maritime Code, even if the claim for the loss or damage to the goods is made in tort.

2.3 In what circumstances may the carrier establish claims against the shipper relating to misdeclaration of cargo?

The carrier can hold the shipper liable for any loss or damage resulting from inaccuracies or errors in the documents concerning the cargo which are necessary in order to perform the carriage, as well as for any losses resulting from a delay in providing such documents (article 123 § 2 of the Code).

More importantly, the carrier can hold the shipper liable for any loss or damage caused through an inaccurate or false declaration regarding the nature or character of the cargo. The shipper's liability is strict. If such a misdeclaration was made by a third party, which delivers the cargo in its own name but in fulfilment of the shipper's obligation to deliver the cargo, then this party can also be held liable by the carrier, but only if the misdeclaration resulted from that party's fault.

Where the B/L was issued, the Polish Maritime Code (article 132 § 2) generally incorporates the provisions of article III rule 5 of the HVR, and hence the shipper is under the obligation to indemnify the carrier against all loss, damages and expenses arising or resulting from any inaccurate or false statements as to the quantity, volume, number, weight, or marks of the cargo.

If (i) goods of an inflammable, explosive or dangerous nature have been falsely declared by the shipper, or (ii) the carrier has not been informed about the dangerous nature of such cargo and, based on common knowledge about such goods, the carrier would not have been able to conclude that the cargo was dangerous, then the shipper will be liable for any loss or damage resulting from the loading and carriage of such cargo. This provision, established by article 127 § 1 of the Code, is generally based on article IV rule 6 of the HVR.

3 Passenger Claims

3.1 What are the key provisions applicable to the resolution of maritime passenger claims?

Poland is a party to the 1974 Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, as amended by the 1976 Protocol. Poland has not ratified the 2002 Protocol; however, it is bound by its provisions via Regulation (EU) No. 392/2009 (see below).

At the European level, the following key regulations operate concerning the rights and obligations relating to passengers:

- Regulation (EC) No. 392/2009 of the European Parliament and of the Council of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents. It should be noted that since Regulation (EC) No. 392/2009 implements the text of the 2002 Athens Protocol directly into the European Union Member States from 31 December 2012, the Protocol's provisions apply to the extent envisaged by the Regulation.
- Regulation (EU) No. 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterways, and amending Regulation (EC) No. 2006/2004.

At the domestic level, and to the extent that these matters are not regulated by Regulation (EU) No. 1177/2010, the provisions of the Polish Maritime Code apply, especially including articles 172–187. The Code additionally regulates issues which are outside the scope of the international and European regulations (e.g., certain rights of carriers in relation to stowaways) and, among others, provides a two-year time-bar for claims not covered by the Convention or the Regulation, such as, for instance, passengers' claims resulting from delays in carriage, or claims for ticket refunds in the case of voyage cancellations.

4 Arrest and Security

4.1 What are the options available to a party seeking to obtain security for a maritime claim against a vessel owner and the applicable procedure?

The security proceedings regarding all types of claims are generally regulated by the Polish Civil Procedure Code (CPC), which offers a wide range of security measures comprising freezing injunctions (including bank accounts), and mortgages and pledges. In particular, if a debtor owns a vessel which has been entered into the Polish register of ships (also including a vessel under construction), then they could be encumbered with a compulsory mortgage if the creditor holds an enforceable judgment against the owner. In most cases, however, where the vessel's owner has no assets in Poland except for their ship that is currently in Polish waters, the arrest of the vessel is the most convenient solution.

Poland is a party to the 1952 International Convention Relating to the Arrest of Sea-Going Ships (the Arrest Convention), but not to the later 1999 Convention. The Arrest Convention only applies to maritime claims as listed in article 1(1). Upon the application of a claimant (subject to a remote court fee), the Polish court will issue a freezing injunction if it is held (i) that the claim is likely to exist (but not yet necessarily proven beyond doubt), and (ii) that it is probable that the claimant has a "legal interest" in obtaining the arrest order. The legal interest requirement means, in practice, that the claimant has to convince the court that without the arrest their claim would be impossible, or at least very difficult to recover (e.g., the ship most likely constitutes the only significant asset of the debtor).

The practical annotation is that in order to have the application for the vessel arrest recognised promptly, any foreign documents need to be translated in advance. Moreover, the court will almost always want to see the corporate documents of the claimant (e.g., excerpt from the commercial register) showing that their representative in the Polish "arrest" proceedings is authorised to act by persons having the capacity to grant such an authorisation. Failure to do so can cause major delays in obtaining the arrest.

The arrest of a ship can be obtained in Poland even if the Polish courts do not have jurisdiction in the main proceedings. It should be noted, however, that the court in Poland will give the claimant no more than 14 days to commence legal proceedings (either in Poland or abroad), if they have not already been started.

4.2 Is it possible for a bunker supplier (whether physical and/or contractual) to arrest a vessel for a claim relating to bunkers supplied by them to that vessel?

Such arrest of the vessel is generally possible, either under the 1952 Arrest Convention (e.g., based on article 1(1)(k) *viz.* a claim arising out of supply of goods or materials for a ship's operation or maintenance), or under the general provisions of the CPC, which give the right to basically secure any kind of claim that can be pursued in court. The Arrest Convention facilitates the arrest, as it also provides for the right to arrest a vessel operated by the demise charterer.

The physical supplier may have difficulty in proving his claim against the vessel if the supplier is not a party to the contract with the vessel. In such cases, the claim would most likely be brought on a non-contractual basis (e.g. unjust enrichment). However, according to the CPC rules, the arrest procedure in its first phase is done on an *ex parte* basis; i.e., a shipowner would not have the chance to respond before the court makes its decision with regard to

the arrest. Therefore, it is possible – on a *prima facie* basis – to convince the court as to the existence of a claim against the vessel and successfully arrest the ship.

It is worth noting that, very often, arresting a vessel in Poland will not automatically mean that the Polish courts will have the jurisdiction to decide on the merits of the claim. Such jurisdiction will be established if (i) the domestic law of Poland would give jurisdiction to Polish courts, or (ii) the supplier's claim would fall into any of the categories mentioned in subsections (a)–(f) of article 7(1) of the 1952 Arrest Convention.

A claim resulting from the bunker supply will usually not give rise to a maritime lien as far as Polish law is concerned, and this makes it slightly more difficult to prove the claim for the purposes of arrest. Poland is a party to the 1926 International Convention for the Unification of Certain Rules relating to Maritime Liens and Mortgages, and has not signed any of the later conventions. Article 2 of the 1926 Convention provides an exhaustive list of claims giving rise to maritime liens. It should be noted that a very similar list of maritime liens is later repeated in the Polish Maritime Code in article 91. The last (fifth) category provides for a maritime lien for claims resulting from contracts entered into or acts done by the master, acting within the scope of his authority away from the vessel's home port, where such contracts or acts are necessary for the preservation of the vessel or the continuation of its voyage. If the contract for the supply of the bunkers was entered into by the master in the above-mentioned circumstances, it may be easier for the claimant to arrest the ship in Poland (as it is justified by the possible enforcement of the lien against the vessel).

4.3 Is it possible to arrest a vessel for claims arising from contracts for the sale and purchase of a ship?

Depending on the type of the specific claim arising from the contract of sale, the arrest of a ship is conceivable if the claim arises from "disputes as to the title to or ownership of any ship" as per article 1(1)(o) of the 1952 Arrest Convention.

Additionally, when the ship is not flying a flag of any of the states party to the 1952 Arrest Convention, the arrest can be based on the Polish domestic law. In such a case the claimant can request arrest even if the claim cannot be categorised as a "maritime claim" within the definition provided for in article 1 of the Convention. In such a case, the claimant must merely (i) demonstrate that it is likely that he has a claim against the shipowner, and (ii) that lack of security (arrest) would probably render enforcement of future judgment against the shipowner unsuccessful (in particular, if the shipowner has no other assets than the vessel in question).

4.4 Where security is sought from a party other than the vessel owner (or demise charterer) for a maritime claim, including exercise of liens over cargo, what options are available?

In general, the CPC contains a wide range of security measures comprising freezing injunctions (including bank accounts), and mortgages and pledges.

In addition, article 149 of the Polish Maritime Code gives the carrier the statutory right to refuse delivery and retain possession of the cargo until the consignee covers the amounts relating to the carriage for which they are liable; e.g., freight, as well as part of the salvage award and a share in the general average attributable to the cargo interests. The carrier will not be able to claim these amounts from the shipper/charterer once they have released the cargo to the consignee.

The Code also provides for the list of specific claims which are secured by a lien on the cargo. The list includes claims for the legal and enforcement costs payable to the state, claims resulting from damages caused by the cargo, and the carrier's claims related to the carriage of these particular goods. Claims secured with a lien on the cargo have priority over other claims, including those secured with mortgages (whether established by contract or the court's decision). However, the lien will be extinguished once the cargo has been delivered to the consignee.

4.5 In relation to maritime claims, what form of security is acceptable; for example, bank guarantee, P&I letter of undertaking.

Once security has been granted by a Polish court (e.g., the vessel has been arrested), the debtor can apply for a cancellation or a change of the decision concerning the security, although this will always be subject to the court's discretion. However, the security will always cease to exist (regardless of the court or creditor's view) if the debtor deposits the full amount of the security (as indicated in the motion for the security) in the bank account of the Ministry of Finance. If this is not done, the debtor can only negotiate an alternative security (bank guarantee, P&I letter of undertaking, etc.) with the claimant in order that the claimant agrees to withdraw the motion for security. The creditor, however, does not have to consent to such an alternative security.

5 Evidence

5.1 What steps can be taken (and when) to preserve or obtain access to evidence in relation to maritime claims including any available procedures for the preservation of physical evidence, examination of witnesses or pre-action disclosure?

According to article 310 of the CPC, evidence can be secured if there is the potential risk that obtaining the evidence later will be impossible or very difficult, or if, for any other reason, it is necessary to determine the present facts. Evidence is secured by the court. Prior to the proceedings, this can be done only upon the party's request; but once the proceedings have commenced, the court can also secure further evidence on its own initiative.

Where proceedings are subject to the Criminal Procedure Code (i.e., in the Maritime Chamber), the parties can also apply to the authorities in charge to collect and secure certain evidence.

5.2 What are the general disclosure obligations in court proceedings?

Article 3 of the CPC (which applies to most commercial disputes in shipping) imposes a general obligation on the parties to the civil proceedings to act with decency and provide true information regarding the case without concealing anything. Witnesses are obliged to testify truthfully, and perjury is subject to prosecution. The same penalty applies to parties if they provide false statements while under oath.

Parties are obliged not to impede the process of obtaining evidence and must comply with court orders regarding the delivery of certain documents. Failure to do so entitles the court to decide how this behaviour should be interpreted depending on the facts of each case (but usually leading to a conclusion that is disadvantageous to the party responsible for such failure).

The court can, in addition, order any third parties to disclose and deliver certain documents; refusal to do so is only possible in very exceptional cases.

6 Procedure

6.1 Describe the typical procedure and timescale applicable to maritime claims conducted through: i) national courts (including any specialised maritime or commercial courts); ii) arbitration (including specialist arbitral bodies); and iii) mediation / alternative dispute resolution.

National courts

Maritime claims, as well as most transport-related disputes, are recognised by the commercial divisions of the regional or district courts (depending on the amount in dispute). Typically, the proceedings are started with a lawsuit being filed in the court and then served to the defendant (the latter moment being decisive for preventing concurrent proceedings which are started in a different court or jurisdiction). The CPC invokes a system of preclusion, meaning in practice that parties need to present evidence and statements as early as possible, otherwise the court might not take them into consideration later.

The court will often order the parties to exchange further writs before scheduling a hearing, in order to narrow down the proceedings to only the disputed issues. At a later stage, witnesses will be heard, and the opinion of experts will be ordered (if required). The first instance proceedings are rarely closed within three months (save for judgments by default) and can take from six months to two years, largely depending on the complexity of each case and the involvement of the parties. Each first instance judgment can be appealed, but the second instance proceedings are usually shorter and are often concluded after the first hearing. Depending on the court of appeal, these proceedings will usually take no more than a few months.

Arbitration

Arbitration in Poland is still uncommon in maritime cases, and arbitration clauses from the standard forms (typically referring to London arbitration) usually remain unchanged. There is, however, the International Court of Arbitration based in Gdynia, which is associated with the Polish Chamber of Maritime Commerce and predominantly deals with maritime disputes.

Arbitration proceedings, unless arranged on an *ad hoc* basis, will usually be regulated by the terms and procedures of each tribunal, and the CPC will additionally apply (regulating, *inter alia*, the procedure for appealing from the award to the court).

Mediation / ADR

Mediation and ADR have been promoted over the last few years and presently the courts strongly encourage parties to use mediation after the legal proceedings have been commenced. It is often the case that at an early stage in the proceedings, the judge will *ex officio* issue an order requesting the parties to try to reach a compromise through mediation within a given time. Whilst participating in the mediation is not compulsory, disputes are increasingly being resolved this way. One of the incentives of mediation is that reaching a settlement this way can entitle the claimant to the return of 100% or 75% of the court fee. Detailed regulations on mediation have been adopted into the CPC.

6.2 Highlight any notable pros and cons related to your jurisdiction that any potential party should bear in mind.

Poland offers relatively low litigation costs, with low court fees (usually 5% of the amount in a dispute) and reasonable attorneys' fees. Additionally, costs such as translations, commuting, etc., are considerably lower than in most Western European jurisdictions.

As an EU Member State, Poland shares a great deal of common legislation with other European countries; therefore, Polish judgments are quickly enforceable in Europe and *vice versa*. Commercial courts have also improved over the last decade, since they have been dealing with more and more transport-related cases, usually concerning parties from different jurisdictions. Most of the important registers (register of companies, land register, etc.) operate online and are easily accessible.

The rather formal approach of Polish courts to procedural issues is one of the disadvantages that exist, but can usually be dealt with if the legal proceedings have been prepared in advance. In terms of speed, Polish courts are at Europe's average level. Vessel arrests are carried out in days rather than hours, but this can in fact be seen by shipowners as an advantage.

7 Foreign Judgments and Awards

7.1 Summarise the key provisions and applicable procedures affecting the recognition and enforcement of foreign judgments.

Poland has been an EU Member State since 1 May 2004; therefore, the recognition and enforcement of judgments given in other EU Member States is primarily regulated by the provisions of Regulation (EU) No. 1215/2012 of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (this Regulation replaced Regulation (EC) No. 44/2001 on 10 January 2015). Therefore, judgments given in an EU Member State (except for Denmark, which has a separate agreement with the EU) are recognised in Poland without any special procedure being required. Accordingly, a judgment given and enforceable in an EU Member State will also be enforceable in Poland without having to obtain any declaration of enforceability from a Polish court. However, please note that this is different from Regulation (EC) No. 44/2001, which still requires a declaration of enforceability to be issued in Poland, and this Regulation still applies to the enforcement of judgments issued before 10 January 2015.

In the case of the recognition and enforcement of judgments from outside the EU, various international conventions and agreements apply, both bilateral (e.g., with Russia, Ukraine, Belarus, etc.) and multilateral (e.g. the 2007 Lugano Convention, which applies between EU States – including Poland – and Denmark, Iceland, Norway and Switzerland).

Where EU or international law on the recognition/enforcement of judgments applies, the CPC will only have an ancillary application to a procedure.

In the case of judgments given in a state from outside the EU which, in addition, does not have any bilateral (or multilateral) agreement with Poland, the recognition and enforcement of such a judgment will be primarily governed by the CPC. This act generally provides that all foreign judgments in civil cases are recognised unless one of the circumstances specified in article 1146 of the CPC occurs (e.g.,

if such recognition is manifestly contrary to public policy, or if the party was deprived of its right to a defence). Similar rules apply to the enforcement of such judgments, and such enforceability is confirmed by the Polish court at the request of the interested party.

7.2 Summarise the key provisions and applicable procedures affecting the recognition and enforcement of arbitration awards.

Poland is a contracting state to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958). Thus, arbitral awards given in other contracting states are recognised and enforced in Poland in accordance with the New York Convention.

Arbitral awards, as well as settlements made in arbitration proceedings in countries which are not a party to the Convention, are recognised and/or enforced in accordance with the CPC. A proper application has to be filed along with the original or officially certified: (i) award/settlement; and (ii) arbitration agreement (arbitral clause). If either of these documents is not in Polish, a certified translation must also be provided. The decision on the enforcement is given after a compulsory court hearing.

The CPC provides that the recognition and/or enforcement of an award or settlement will be mandatorily refused by a Polish court if (i) according to Polish law, such dispute cannot be recognised in arbitration proceedings, or (ii) the recognition or enforcement of the award/settlement is contrary to the public policy of Poland. There is a list of defences provided by the CPC to prevent the enforcement of an award/settlement.

8 Updates and Developments

8.1 Describe any other issues not considered above that may be worthy of note, together with any current trends or likely future developments that may be of interest.

Recent months saw Poland commence legal work on establishing a new Maritime Development Fund. Its goal is to gather resources necessary to ensure proper development of Polish maritime infrastructure and stimulate growth in the maritime sector. The Fund will take form of a commercial joint stock company and is supposed to invest in the coming years at least two billion PLN to aid the development of the maritime economy.

Poland also introduced a new central body responsible for supervising the fishing industry. The General Inspectorate of Marine Fishing, established by a novelisation to the Polish Marine Fishing Act, will be charged with overseeing all commercial and recreational fishing activity. It will replace the current structures in ensuring adherence to the legal provisions regulating all activities related to fishing and organisation of the fishing market.

As Poland is party to the Maritime Labour Convention, its recent amendments were ratified by the Polish parliament as well.

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Maciej is a qualified solicitor specialising in shipping law, marine insurance, inland navigation, and the carriage of goods by road (CMR). He studied maritime law at the University of Southampton (LL.M.) and has considerable knowledge of English shipping law, including the carriage of goods by sea and marine insurance.

Over the last 13 years, Maciej has furthered his experience by working for P&I correspondents and then as a claims handler for a major shipowner, dealing with both Hull & Machinery and P&I insurance. He also worked for a mid-size law firm where he was involved in many aspects of shipping, including the sale of ships, ship financing and cargo claims, etc.

Maciej regularly handles cases related to transport, and in particular, cases concerning contractual disputes (claims under charterparties, insurance claims and CMR claims), as well as claims in torts (collisions and ship sinkings, wreck removals and oil pollution). He also takes care of security and enforcement proceedings, including vessel arrests.

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Piotr is a solicitor who qualified in Poland, having previously spent several years abroad living and studying in both London and Rotterdam. Working in the legal profession since 2004, he provides legal advice in all matters related to maritime law (including legal assistance to Poland's leading shipowners) as well as corporate law. In both of these fields, he took an active role in many projects, including establishing the legal terms of the development and operation of offshore enterprises, advising in some of Poland's largest shipping and financing undertakings.

Piotr has wide expertise in civil contracts and agreements, and his practice includes complex lease and sale contracts, including agreements relating to marine vessels, maritime mortgages and service contracts in all areas of business (e.g., forwarding, transport, insurance and banking), as well as agreements regarding long-term cooperation or investments between business partners.

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Rosicki, Grudziński & Co. is a Polish law firm advising clients mainly on transport law, in addition to insurance and international trade. Our expertise is largely focused on shipping law and inland navigation and road carriage, as well as all types of disputes arising therefrom.

Our firm provides comprehensive legal services for the maritime and manufacturing sectors. We are also proud to maintain a highly effective litigation team which assists in legal disputes and the enforcement of foreign judgments and awards, as well as in the recovery of claims.

Our lawyers provide legal assistance within Poland, including Warsaw and all of the major Polish ports (Gdańsk, Gdynia, Świnoujście, and Szczecin). The firm also frequently acts outside Poland in international disputes and negotiations through a wide list of corresponding lawyers in Europe and other jurisdictions.

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