

# Arrest of ships and orders prohibiting dealings with Cyprus-registered ships



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## Shipping & Transport, Cyprus

On 21 October 2020 the admiralty division of the Supreme Court issued a judgment (in Admiralty Action 6/2020) confirming that a warrant of arrest may only be issued only in *in rem* proceedings against the vessel itself. The judgment was made on the basis of Rule 50 of the Admiralty Jurisdiction Order, which states as follows: "In an action *in rem*, any party may at the time of, or at any time after, the issue of the writ of summons apply to the court or a judge for the issue of a warrant for the arrest of property."

The case concerned a dispute of the company shareholders which owned the Cyprus-registered vessel Mediterranean Diamond. The sole defendant in the proceedings was the shipowning company. An application was filed for the arrest of the ship based on Section 30 of the Merchant Shipping (Registration, Sale and Mortgage of Ships) Law 1963, as amended, which provides as follows:

*The Supreme Court may, if it thinks fit (without prejudice to the exercise of any other power of the Court), on the application of any interested person make an order prohibiting for a time specified any dealing with a ship or any share therein, and the Court may make the order on any terms or conditions it may think just, or may refuse to make the order, or may discharge the order when made, with or without costs, and generally may act in the case as the justice of the case requires; and the Registrar, without being made a party of the proceedings, shall on being served with an official copy thereof obey the same.*

At the *ex parte* stage, the court issued the warrant of arrest, but the continuation of the said warrant was subsequently opposed by the respondent.

The court referred to *Gerasaki v Waft Shipping* ((1989) 1 CLR (E) 393) in respect of the fact that the aforementioned Section 30 is a specialised type of remedy with a limited scope of application.

As mentioned previously, the court had stated that a ship may be arrested only in *in rem* proceedings. Consequently, it cancelled the arrest warrant that it had initially granted on an *ex parte* basis. The court further confirmed its decision in *Nationwide Shipping Inc v the Ship Athena* ((2012) 1 CLR 2343). In this instance, it was stated that it was impossible to issue a warrant of arrest against the vessel in support of foreign arbitration proceedings as security for a possible judgment that may be issued in those arbitration proceedings.

*For further information on this topic please contact Costas Stamatiou at Elias Neocleous & Co LLC by telephone (+357 25 110 110) or email (costas.stamatiou@neo.law). The Elias Neocleous & Co LLC website can be accessed at [www.neo.law](http://www.neo.law).*

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Costas Stamatiou