

## SPECIAL RULES OF PROCEDURE FOR CONDUCTING RESEARCH ON BOARD

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### ABSTRACT

1982 Convention requires Member shall cooperate in this area and to exercise freedoms granted taking into consideration the interests of other countries and their rights on the international activities of the submarine areas. Seas must be used exclusively for peaceful purposes, is prohibited, for example, nuclear testing in the high seas and airspace above it (treaty of 1963) or the placement of nuclear weapons on the seabed (Treaty of 1971). Seas is not, however, demilitarized and nuclear-free neutralized restrictions set partially in character, so that in time of peace on the high seas is allowed there military navies and seas in wartime can be used as a theater of operations military.

**Keywords:** *rules, procedure, research on board.*

### 1. INTRODUCTION

Specific offenses naval transport system are provided in special laws, such as Law. 191/2003 on offenses shipping, Government Ordinance no. 42/1997 regarding shipping, Law no. 17 of 7 August 1990, republished, the legal regime of internal waters, territorial sea, contiguous zone and the exclusive economic zone of Romania Government Emergency Ordinance no. 23/2008 on fisheries and aquaculture.

Taking action and conduct research on board a ship flying the flag of a foreign state, the Romanian state concluded agreements which provide consular notification of the State whose flag the vessel is, shall be in accordance with the provisions of this Convention. For works that do not have a criminal or public order interests, port captains will assist foreign skippers on board measures only at the written request of the master or consular officer of the State whose flag.

Criminal Procedure Code regulates the criminal investigation into the safety of navigation is performed by the harbor that particular organ, for crimes against the safety of navigation on the water and against order and discipline on board and service for offenses or related service provided in criminal Code committed by civilian Navy aircrew if the act had or could jeopardize the safety of the ship or ships.

From this point of view, the territorial competence is simplified as in Romania being one sea-river court follows that whatever the place of commission of offenses or acts and domicile or headquarters of the natural or legal disputes are settled by the Court constant sea-river station.

In the territorial jurisdiction of Romanian courts is established by an authority it has a sea and river section, but it is "limited" because the law of judicial organization by the Minister of Justice such a station was established only in the Constanta Court.

Romanian criminal jurisdiction applies to any offense committed on Romanian territory by persons on board foreign ships used for commercial purposes, and of any offense committed on board such ship, the time when it is in port Romanian or internal waters. Romanian criminal jurisdiction shall not be exercised on board a foreign vessel used for commercial purposes,

passing through the territorial sea, of an offense committed on board, unless:

- a) the offense was committed by a Romanian citizen or a person without citizenship residing in Romania;
- b) the offense is against national interests or against a Romanian citizen or a person resident in Romania;
- c) the offense is likely to disturb the public order in the country and order within the territorial sea ;
- d) the exercise of jurisdiction is necessary Romanian suppression of illicit traffic in narcotic drugs or psychotropic substances ;
- e) assistance Romanian authorities has been requested in writing by the master or by a diplomatic agent or consular officer of the flag ship.

Romanian criminal jurisdiction applies to infringements of the provisions of this Law on the Exclusive Economic Zone of Romania by persons on board foreign ships used for commercial purposes, if the acts are committed in such circumstances that the criminal law are considered offenses.

Criminal jurisdiction on board a ship flying the flag of a state with which Romania has concluded a consular convention or other similar agreement is exercised in compliance with them. In exercising jurisdiction Romanian competent authorities may provide, in accordance with the legal provisions in force, detention or seizure of foreign vessels used for commercial purposes and will take enforcement action against such vessel is in the territorial sea, the waters interior sea or the contiguous zone of Romania, to ensure fulfillment of obligations incurred or other obligations assumed by the vessel during or in connection with the passage through the territorial sea or internal waters of Romania and other claims arising from events navigation resulted in the damage to the ship or cargo, or resulting from collisions, or rescue assistance, and for damages, costs and the like. In case of violation of the Romanian state sovereign rights of exploration, exploitation, protection, conservation and management of the environment and living resources in the exclusive economic zone, the Romanian authorities will take the necessary steps, in accordance with Romanian law in force and international conventions which Romania is a

party, including inspection or detention of foreign vessels used for commercial purposes.

The ship and its crew detained will be released immediately after filing a bond or other appropriate safeguards. Where there are reasonable grounds to believe that a vessel used for commercial purposes, which lies in the internal waters or the territorial sea or sailing times that passed through the exclusive economic zone of Romania, the Romanian legislation or rules violated international the prevention, reduction and control of marine pollution, the competent Romanian authorities are entitled to require the vessel explanation of the facts complained of, and to inspect the ship, where they refuse to provide an explanation of or if the explanations received does not correspond to the facts, and where the evidence so warrants, institute legal proceedings in connection with the breach, according to the Romanian legislation, and, among other measures necessary to order, subject to international law, detention. Full sovereignty over its territory a maritime state is exercised by the outer limit of the territorial sea beyond the seas start. Security needs of states, or achievement of their own interests and in certain large portions beyond the outer limit of the territorial sea and dedication led to the special areas in which states are entitled to exercise certain attributes of their sovereignty.

These areas are contiguous zone, continental shelf and exclusive economic zone. Contiguous zone is the portion of the sea which extends beyond the outer limit of the territorial sea to a distance of 24 nautical miles from the baselines to sea, the coastal State has certain exclusive rights precisely determined.

In this area the coastal state is entitled to exercise control laws and regulations to prevent abuse of its customs, fiscal, health and border regime.

Coastal State may take any measures to prevent and sanction the violation own under the same conditions as in its national territory, but only in the areas mentioned.

From the historical point of view, the origin of the contiguous zone are areas where certain maritime powers have booked since the eighteenth century some exclusive control rights in customs, and in other areas to better protect their interests, while the territorial sea does not exceed 3 km in width.

In terms of geological continental shelf is an extension of the slope below the sea shore of a coastal State on the steep Mrs. PA. Legal Aspects of the Law of the Sea Convention 1982 defines the continental shelf as soil and underground submarine areas that extend beyond the outer limit of the territorial sea throughout the natural prolongation of the land territory to the outer limit of the continental slope, or until a 200 miles away from the size measured from the baselines of the territorial sea where the outer limit of the continental slope does not reach this distance. Where the continental slope extends over very large distances of several hundred kilometers, the convention establishes that the continental shelf shall not exceed 350 miles from the baseline or 100 km beyond the point where the water depth reaches 2500 m. Delimitation of the continental shelf is within the limits set by the Convention by each riparian state for its area. Between neighboring countries or between countries situated in front of demarcation is

done by agreement of the parties under international law, provided that the solution reached is fair. Consecration legal continental shelf appeared and imposed after the Second World War, when the improvement of means of exploitation submarine (flora and fauna, oil and gas deposits or metal) aroused interest in harnessing the developed countries of such resources.

The legal regime of the continental shelf emerged first as a unilateral practice of states, which has become the custom character and then enshrined in the "Convention on the Continental Shelf" signed in Geneva in 1958, where he was taken in the Convention on the law of the Sea in 1982. On the continental shelf of the coastal State exercises sovereign rights of exploration and exploitation of its natural resources.

No other state can acquire rights over the continental shelf without the express consent of the coastal State. However, the coastal State may not impede another state to install and use pipelines and submarine cables in the area of its continental shelf. The route shall be established, however, together with the coastal State.

Rinveran state rights in its continental shelf do not depend on the actual occupation or any express declaration by it. Rights over the continental shelf can not affect its over seas or airspace that remain outside of any right of sovereignty.

Coastal State is keen to exploit its continental shelf without thereby hampering free shipping or to seriously harm marine biological resources.

He can build or implanting artificial islands and other installations for the exploration and exploitation of the area around them and establish security zones up to 500 m, provided they are not located in places that would hinder the normal use of shipping lanes.

Exclusive economic zone concept is recent, he appeared after 1946 when some South American countries interested in protecting their fisheries resources, established certain areas to protect their coastal fishing rights beyond the territorial sea, the varying distances of up to 200 nautical miles from the ocean. Such zones were subsequently established by other countries, especially in Asia and Africa.

Conventional about this right was enshrined in the "Convention on the Law of the Sea" in 1982, as one of the most important innovations of the Convention.

The exclusive economic zone is a portion of the high seas to sea stretching distance of 200 nautical miles from the baselines from which the territorial sea is measured. EEZ is not part of the national territory of the state is subject to the jurisdiction thereof riveran.

Ea only for some economic rights of exploitation.

In the exclusive economic zone the coastal State has sovereign rights for exploration and exploitation, conservation and management of natural resources, biological and non-biological, seas and oceans.

Freedom of navigation and overflight and the laying of submarine cables and pipelines, which have all the world's seas should be respected in this area.

Coastal State in the area can build and use artificial islands, installations and structures in economic purpose and is only right to authorize and regulate the construction and use of such facilities to other states.

He also has the right to conduct marine scientific research in the area and establish marine conservation measures, other states have authorized such activities need to. Coastal State may conduct fishing activities in the area, but other mining and exploration activities in the area for business purposes such as power generation using water, marine currents and wind etc.

In terms of fisheries, the coastal State may establish total catches, catches its own volume and agreements with other countries, their fishing quotas in the area, giving preferential treatment in this regard landlocked countries and the economically disadvantaged, as recommended in the wording of the Convention of 1982.

## **2. RULES APPLICABLE TO FOREIGN WARSHIPS, SUBMARINES AND OTHER SUBMERSIBLE VEHICLES AND OTHER GOVERNMENT SHIPS USED FOR GOVERNMENT SERVICES**

Foreign military ships, submarines and other submersible vehicles and foreign flag vessels used for government services may enter the territorial sea, in ports and shall only with the prior approval of the Romanian Government, except in cases of emergency or storm shelter. Approval is requested at least 30 days before the date on which it was to be passing through the territorial sea or visiting ports or shall unless between Romania and the flag State agreed otherwise.

Foreign submarines and other underwater vehicles passing through the territorial sea are required to navigate on the surface and fly the national flag.

Those who will be in immersion will be forced to come out. In case, due to a fault may not come out, they are bound to signal, by all means, the situation in which it is located.

If a foreign warship Romania violate laws and regulations in the internal waters or territorial sea and disregards the warning that was given to comply with them will be ordered to immediately leave the territorial sea of Romania.

Liability for any loss or damage caused by a foreign warship or any other ship of state used for government services or commercial purposes and by people who are part of the crew of such vessels, the time when the vessel was in ports, internal waters, territorial sea and exclusive economic zone of Romania returns the state whose flag the vessel.

## **3. APPLYING THE CRIMINAL JURISDICTION OF ROMANIA ON BOARD**

Field research and reconstruction, carried on ships or ports inside the courts or other bodies prosecution than port captains, are only assistant port captain or his representative.

Criminal Procedure Code regulates the criminal investigation into the safety of navigation is performed by the harbor that particular organ, for crimes against the safety of navigation on the water and against order and discipline on board and service for offenses or related service provided in criminal Code committed by civilian Navy aircrew if the act had or could jeopardize the safety

of the ship or ships.

LAW NO. 17 of 7 August 19905 on the regime of internal waters, territorial sea, contiguous zone and the exclusive economic zone of Romania Romania governing criminal jurisdiction that apply in respect of any offense committed in the novel by persons on board foreign vessels used for commercial purposes, and of any offense committed on board such ship, the time when it was in Romanian ports or internal waters. In accordance with Art. 49 nr.17/1990 law constitutes a crime punishable by imprisonment from 3 months to 2 years or a fine discharge of pollutants from a ship in:

- a) the internal waters or ports aquatory where applicable Marpol 73/78;
- b) the territorial sea;
- c) the exclusive economic zone or in an equivalent area determined in accordance with international law;
- d) the high seas.

To the extent not inconsistent with the provisions of international law, the Romanian criminal jurisdiction applies to the facts mentioned above committed by foreign vessels:

- a) the exclusive economic zone of Romania or in an equivalent area determined in accordance with international law;
- b) outside Romania and the exclusive economic zone, but have caused or threaten to cause pollution in its territory or in its exclusive economic zone and the ship is voluntarily within a port or offshore terminal of Romania;
- c) the high seas, and the ship is voluntarily within a port or offshore terminal of Romania.

In application of art. 230 para. 1 of the UN Convention on the Law of the Sea, signed at Montego Bay (Jamaica) on 10 December 1982, ratified by Law no. 110/1996, the facts set out in art. 49 committed by a foreign vessel outside Romania are punishable by a fine in cases where the criminal jurisdiction of Romania applicable under national or international rule.

Not covered by that Article discharges of polluting substances from ships of war, the auxiliary warships and other vessels belonging to the Romanian state or another state or operated by it and used exclusively for the service when discharged public, noncommercial use.

Also not covered by this article acts committed by the owner, master or crew, if the discharge of pollutants has been produced under the terms of Rule 4.2 of the revised Annex I or Annex II Revised Regulation 3.1.2 of the Marpol 73/78.

If the Romanian Naval Authority finds an offense under this law or is aware of the risk of committing such an offense that causes or may cause imminent pollution, shall inform the other Member States likely to be exposed to such damage as and the European Commission. However, if the Romanian Naval Authority finds an offense under this law or is aware of the risk of committing such an offense, which may be subject to the jurisdiction of another Member State shall immediately inform the Member State thereof. Romanian Naval Authority shall immediately notify the flag State or any other State concerned of measures taken in implementation of this law.

The offenses which attract the jurisdiction of several Member States, Romania, by the central competent authorities shall cooperate with the Member States concerned, in particular the prosecution to establish the conditions and rules on mutual legal assistance.

#### 4. CONCLUSIONS

Seas principle was formulated jurist Hugo Grotius in 1609 by the great, considering that, due to the development of international trade, the old principle of closed sea, specifically taking advantage of the Middle Ages and the naval powers of the era who claimed exclusive rights to increase or portions of the oceans no longer meets their interests with access to all parts of the world. Principle has become customary way then, but his consecration Conventional only occurred in this century by the 1958 Geneva Convention on the High Seas.

Seas convention defined as that part of the sea that did not belong to the territorial sea or internal waters of a State, on which no sovereignty of any State, being open to all nations. Some new details were brought by the Convention of 1982 which states that the legal regime of the high seas applies "to all marine areas that are not part of the exclusive economic zone, the territorial sea or internal waters of a State, or in the archipelagic waters a State - archipelago".

The legal regime of the high seas is governed by the principle of freedom of the seas, that the world's oceans and seas are open to all States, whether or not landlocked and no State can declare sovereignty over any part free.

The principle of freedom of the sea gives a number of world states tangible seas freedoms: freedom of navigation, freedom of overflight, freedom of fishing, freedom to lay submarine cables and pipelines, freedom to construct artificial islands and other installations permitted under international law and freedom of scientific research.

The first four freedoms belong to classic law being established as such by the Convention of 1958, and the last two are set for the first time in the 1982 Convention, as one of the innovations brought in by it. Freedom of the seas is not, however, absolute. In exercising jurisdiction Romanian Romanian competent authorities may provide, in accordance with the legal provisions in force, detention or seizure of foreign vessels used for commercial purposes and will take enforcement action against such vessel is in the territorial sea, the waters interior sea or the contiguous zone of Romania, to ensure fulfillment of obligations incurred or other obligations assumed by the vessel during or in connection with the passage through the territorial sea or internal waters of Romania and other claims arising from events navigation resulted in the damage to the ship or cargo or resulting from collisions, or rescue assistance, and for damages, costs and the like.

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