

# A COMPARATIVE STUDY OF COMPULSORY WRECK REMOVAL UNDER CROATIAN AND ITALIAN MARITIME LAW\*

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## ABSTRACT

*The authors analyse and compare the national rules of the maritime law of Croatia and Italy regulating compulsory wreck removal as well as the provisions of the Nairobi Wreck Removal Convention 2007 (WRC). Where necessary, the authors consider the preparatory works preceding the WRC and the national law solutions respectively. The study includes an analysis of the relevant Croatian and Italian case law and relies on legal writings dealing with wreck removal under Italian and Croatian maritime law, as well as under the WRC. Furthermore, the paper makes certain suggestions for possible improvements in the respective national legal regimes in the interest of legal certainty and uniformity of maritime law rules that may come into play in the event of a wreck affecting one or both of the Adriatic countries in question. In particular, the paper deals with the sources of maritime law regulating compulsory wreck removal, the geographic scope of application of the relevant legal provisions, the status of the exclusive economic zones of Croatia and Italy in the Adriatic Sea, the notion of wreck and the meaning of hazard, the competent authorities and procedures, the owner's liability and insurance for the costs of wreck removal, real rights on the removed wreck, and other types of security for the claims of the competent authorities related to compulsory wreck removal.*

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**Keywords:** wreck, ship, Nairobi Wreck Removal Convention 2007, marine environment, maritime law, Italy, Croatia.

**SUMMARY:** I. INTRODUCTION.—II. MATERIALS AND METHODS.—III. SOURCES OF MARITIME LAW REGULATING COMPULSORY WRECK REMOVAL: 1. Croatia. 2. Italy.—IV. THE GEOGRAPHIC SCOPE OF APPLICATION OF THE LEGAL PROVISIONS ON COMPULSORY WRECK REMOVAL: 1. Croatia. 2. Italy. 3. The WRC: 3.1. The EEZs of Croatia and Italy in the Adriatic Sea.—V. THE NOTION OF WRECK IN THE CONTEXT OF COMPULSORY WRECK REMOVAL: 1. Croatia: 1.1. The term wreck in relation to certain types of maritime craft. 1.2. The term wreck in relation to a maritime casualty. 1.3. The term wreck and salvage. 2. Italy: 2.1. Types of objects that may be subject to compulsory removal: 2.1.1. Ship. 2.1.2. Goods and other materials. 2.2. Submersion as a condition for the application of the compulsory removal regime.—VI. HAZARD IN THE CONTEXT OF COMPULSORY WRECK REMOVAL: 1. Croatia. 2. Italy.—VII. AUTHORITY AND PROCEDURE: 1. Croatia: 1.1. Competent authorities. 1.2. The procedure. 2. Italy: 2.1. Competent authorities. 2.2. The procedure.—VIII. LIABILITY AND INSURANCE: 1. Croatia: 1.1. The owner's liability in relation to a wreck: the general rule. 1.2. The owner's liability for the costs of compulsory wreck removal. 1.3. Mandatory insurance. 1.4. Direct action against the insurer. 1.5. Time limits. 2. Italy.—IX. REAL RIGHTS ON THE REMOVED WRECK AND OTHER TYPES OF SECURITY FOR THE CLAIMS OF THE COMPETENT AUTHORITIES RELATED TO COMPULSORY WRECK REMOVAL: 1. Croatia. 2. Italy.—X. CONCLUSIONS.—XI. BIBLIOGRAPHY.