

**BALEX**  
Baltic Area  
Legal Studies



# Wrecks as Environmental Risks: The Legal Framework

SYKE-BALEX Seminar

Helsinki, 29 - 30 November 2017

Head Office of Finnish Environment Institute, Mechelininkatu 34 a,  
Big Auditorium

**#BALEXSeminar**  
**#WreckPollution**

# PROGRAM

## Wednesday 29th November

9:00-9:15 Welcome

9:15-9:45 Setting the scene: The Extent of the Problem, Potentially Polluting Wrecks in the Baltic Sea

### **Part I International Law Issues**

9:45-10:15 Overview of Wrecks in International Law - Partly Regulated, by a Multitude of International Conventions

10:15-10:45 BREAK

10:45-11:15 State Responsibility and Sunken Ships (Flag and Coastal State Perspectives)

11:15-11:45 The Case for a Convention for the Protection of the Baltic Sea Underwater Cultural Heritage - Environmental Perspectives

12-13 LUNCH

### **Part II Public Law Issues**

13:00-13:30 Environmental Threats from Wrecks: The Point of View of the Environmental Authorities

13:30-14:15 Lessons Learned from Canada with a Comparative Analysis on Selected EU Jurisdictions (Project WRENE)

14:15-14:45 Ammunition Risks and Wrecks in the Baltic Sea

14:45-15:15 BREAK

15:15-15:45 Russian Legislation on Wreck Removal

15:45-16:15 A Coherent National Strategy: The Swedish Experience

16:15-16:45 Does Antiquities Act Really Prevent Environmental Protection?

DINNER AND EVENING PROGRAM

## **Thursday 30th November**

9:00-9:30 The State's Response to Wrecks Causing Environmental Risks – a Comparison of Roles and Responsibilities of the North European "Intervention Enforcers"

### **Part III Private Law Issues**

9:30-10:00 Remedying Environmental Damage from Wrecks: The Liability of Owners and Salvors

10:00-10:15 BREAK

10:15-10:45 Wreck Removal Contracts Between Governments and Private Parties: Scandinavian Experiences

10:45-11:30 Should Salvors have a Greater Role in Removing Environmental Threats from Wrecks and What Legal Solutions are Required? What's Wrong with Existing Standard Contracts for Wreck Removal?

11:30-12:00 Concluding discussion

12-13 LUNCH

### **Part IV Roundtable**

13-13:15 Introduction: Examples of Administrative Complexities in Finland

13:15-15 Roundtable for government representatives: Chaired by Saara Ilvessalo, LL.M., BALEX Coordinator



**Ida-Maja Hassellöv**

*Associate Professor, Chalmers  
University of Technology*

## **Setting the Scene: The Extent of the Problem, Potentially Polluting Wrecks in the Baltic Sea**

The recognition of potentially polluting shipwrecks in the Baltic Sea follows a similar pattern in most countries; the initial phase of recognizing that there are many wrecks is followed by an identified need for a wreck inventory and finally the necessity of prioritization and risk assessment prior to remediation and/or salvage. The work along this path is often hampered by unclear legal responsibilities regarding the wrecks. Much progress has been reached through triple helix collaboration in research projects funded by EU BONUS, EU Interreg and within the platform HELCOM Submerged.



**Henrik Ringbom**

*Adjunct Professor in Maritime Law  
& Law of the Sea*

## **Overview of Wrecks in International Law - Partly Regulated, by a Multitude of International Conventions**

The presentation will provide a general overview of the various international rules that apply to wrecks or ships in danger of becoming wrecks. The current regulatory system consists of a complex web of private and public law conventions that normally deal with other aspects than wrecks as their main focus, but also contain a few provisions that are of relevance to wrecks. Conversely, the two international conventions that specifically target wrecks either deal with very old (100+ years) wrecks or only with future wrecks. The focus of the presentation are wrecks that fall in between these categories, with a particular emphasis on the environmental hazards and risks with wrecks.



**Henning Jessen**

*Associate Professor in Maritime  
Law, World Maritime University*

## **State Responsibility and Sunken Ships (Flag and Coastal State Perspectives)**

This presentation will address the question: Which legal rules potentially apply to questions of ownership, removal and liability in relation to sunken ships? Obviously, the perspectives of flag States and coastal States are crucial here, but, additionally, the legal status of sunken ships itself (public or private?) might even complicate the legal analysis. The presentation will primarily concentrate on sunken war ships/State vessels. It will highlight some differing legal approaches taken by the United States and by national legal orders in continental Europe. In particular, when it comes to sunken war ships (state vessels), the presentation favours the view that no contractual or customary international public law exists at all in relation to the question of property-ownership. Rather, public international law leaves this question open to the domestic level.



**Marie Jacobsson**

*Principal Legal Adviser, Ministry  
for Foreign Affairs, Sweden*

## **The Case for a Convention for the Protection of the Baltic Sea Underwater Cultural Heritage - Environmental Perspectives**

It is time to make a connection between the protection of the marine environment and the protection of the underwater cultural heritage. What is threatening what? Is the underwater cultural object threatening the marine environment e.g. by aging leaking wrecks? Are the changing conditions of and in the marine environment posing new kinds of threats to the underwater cultural heritage? Or are other uses of the sea causing threats to both?

This raises the question: Is there a need for regional Baltic Sea legal framework aimed at enhancing the protection of the underwater cultural heritage and the protection of the marine environment at the same time?



**Jorma Rytönen**

*HRD Manager, Finnish  
Environment Institute*

## **Environmental Threats from Wrecks: The Point of View of the Environmental Authorities**

There are more than 8 500 sunken wrecks around the world with certain amount of oil onboard. Baltic Sea waters also hide numerous wrecks with oil onboard. Alone in the Finnish coastline exist more than 1300 wrecks which have used oil as their own bunker. Significant amount of these ships are already in such age, where corroded steel plates will let oil penetrate through the hull, thus causing a continuous source for pollution.

Recently, HELCOM established a new working group “Submerged” to evaluate the wreck concept in the Baltic Sea area. The focus has been directed to evaluate the pollution potential of wrecks in the Baltic and to develop possible joint measures to minimize the risk of pollution in the future. This presentation will first discuss the wrecks and their oil pollution risk by using as examples some of the known oil removal cases in Finland. Finally, the latest fate of the HELCOM’s Submerged working group is highlighted, giving an idea of the future challenges to be met.



**Professor Neil Bellefontaine  
and PhD Tafsir Johansson**

*World Maritime University*

## **Lessons Learned from Canada with a Comparative Analysis on Selected EU Jurisdictions (Project WRENE)**

Following the implementation of the Oceans Protection Plan in 2016, the Canadian federal government is in the process of refining the legal and operational framework pertaining to wrecks that are considered to be abandoned and derelict, and are currently referred to as “vessels of concern”. The presentation is primarily a synoptic overview of the lessons learned from the Canadian federal wreck-related efforts, with a focus on noteworthy developments and best practices gathered from the World Maritime University project titled Wreck Responsibilities in Northern Europe (WRENE).



**Benedykt Hac**

*PhD, Head of Operational Oceanography Department of Maritime Institute in Gdansk, DAIMON project*

## **Ammunition Risks and Wrecks in the Baltic Sea**

This presentation will touch upon:

- Environmental surveys of dangerous Baltic wrecks – with big stress on two wrecks located in Gdańsk Bay – “Stuttgart” and “Franken” – survey made on commission of the Polish *Ministry of Environment*.
- Search and surveys of conventional and chemical weapons in the Baltic Sea and in the Skagerrak/Kattegat
  - the CHEMSEA project,
  - the DAIMON project.
- Some words about general UXO situation in the Baltic Sea.



**Alexander Skaridov**

*Professor, Admiral Makarov State Maritime University*

## **Russian Legislation on Wreck Removal**

Russia will soon become party to the Nairobi International Convention for the Removal of Wrecks. Russia has a long history in the practice of raising sunken property and enacting supporting legislation. Since 1929, the main source of this legislation has been the Merchant Marine. By analyzing the current 1999 amendment, along with other sources of modern legislation, the author finds that ratification of such a convention will require significant changes to existing law. Particularly regarding the meaning of certain terms and the boundaries of jurisdiction for the purpose of wreck removal. In this presentation, the author discusses these and other issues of comparability between Russian and international law regarding the subject of the BALEX-SYKE shipwreck seminar.



**Frederik Lindgren**

*PhD in ecotoxicology  
Researcher, Swedish Agency for Marine and Water Management*

## **A Coherent National Strategy: The Swedish Experience**

In his talk, Fredrik Lindgren will present the legal situation in Sweden related to wrecks, and describe the collaboration between governmental agencies and university in addressing the problem with potentially polluting ship wrecks. This joint work has resulted in the identification of the 30 most hazardous ship wrecks and that an agency has been appointed as responsible for coordinating investigations and remediations of these ship wrecks. Furthermore, he will briefly present a risk analysis tool, VRAKA, which is used as a decision support tool in the process of identifying which wrecks should be prioritized for remediation actions.



**Juha Maaperä**

*Legal Advisor, Finnish National Board of Antiquities*

## **Does Antiquities Act Really Prevent Environmental Protection?**

Protection of the environment – be it natural environment or cultural environment – is a reaction to a perceived threat of an environmental commodity, a type of environment or species becoming rarer and rarer. This often leads to a situation where issues related to protection arise seemingly abruptly, like a jack-in-a-box, causing problems in the implementation of undertakings already set in motion.

The Antiquities Act protects the wrecks of ships which have sunk 100 years ago. Covering, changing, damaging, removal and other similar manipulation of such wrecks are not possible without a permit issued in accordance with the Antiquities Act. With an increasing amount of wrecks prone to be regarded as antiquities containing hazardous substances, there is a need to take into account also aspects related to cultural environment in actions aimed at the protection of natural environment and biodiversity.



**Markku Suksi**

*Professor, Åbo Akademi University*

## **The State's Response to Wrecks Causing Environmental Risks – a Comparison of Roles and Responsibilities of the North European "Intervention Enforcers"**

The British Maritime Code contains vast powers for the SOSREP, mainly because of the 1967 Torrey Canyon incident and the 1969 Intervention Convention. The question is how the exceptional measures expected under the Intervention Convention for the prevention of oil pollution have been incorporated in the governmental structures of three Nordic countries, Denmark, Finland and Sweden. It appears that great variations exist. Denmark comes closest to the UK SOSREP styled national intervention regime with the Ministry of Defence as the main enforcer, while Sweden with the Board of Transportation and Finland with the Finnish Environmental Institute are farther away from the original model. The powers of the intervention enforcers are also differently fashioned, and an analysis from an administrative law perspective should enable us to compare the profile of public powers wielded by each of the intervention enforcer.



**Peter Wetterstein**

*Professor Emeritus, Åbo Akademi University*

## **Remedying Environmental Damage from Wrecks: The Liability of Owners and Salvors**

The presentation "Remedying Environmental Damage from Wrecks - The Liability of Owners and Salvors" deals with the obligation to remedy environmental damage caused by wrecks. Focus is on the liabilities of owners and salvors of sunken or grounded vessels. As there is no international regulatory regime in place for specifically dealing with remedying responsibilities and the allocation of liability in relation to environmental damage caused by wrecks, interest turns to civil liability conventions, EU law and national legal rules.



**Kjersti Tusvik**

*Senior Legal Adviser, Norwegian Coastal Administration*

## **Wreck Removal Contracts Between Governments and Private Parties: Scandinavian Experiences**

The presentation will give an overview of the main considerations of the authorities preparing and carrying out wreck removal or other measures to reduce environmental risks from wrecks. The presentation will be based on the experience of the Norwegian Coastal Administration through a number of cases involving commercial contracts between the authority and private industry parties.



**Nicholas Sloane**

*Director, Resolve Marine Group*

## **Should Salvors have a Greater Role in Removing Environmental Threats from Wrecks and What Legal Solutions are Required? What's Wrong with Existing Standard Contracts for Wreck Removal?**



**Ville Peltokorpi**

*LL.M., Scientific & Technical Diver*

## **Roundtable Discussion Introduction: Examples of Administrative Complexities in Finland**

Ville Peltokorpi, LL.M., is a scientific and technical diver, whose research and main areas of interest focus on the legal issues surrounding the protection and management of sunken warships, and the protection of UCH in general. During his spare time he tries to spend his time underwater with Badewanne dive team, a Finnish non-profit organisation that represents a group of voluntary divers who document shipwrecks in the Gulf of Finland. His round table introduction will cover examples of administrative complexities in Finland, that officials face with shipwrecks. This introduction will briefly cover why and how shipwrecks have so many different interest groups, how this affects shipwreck management and policies, and how could we develop better co-operation between different government officials.