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# The Liability of the Classification Society under Italian Law

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# Liability in Tort under Italian Law

## article 2043 of the Italian civil code

Tort liability is established when the following requirements are met:

- i. negligent or wilful misconduct
- ii. wrongful damage
- iii. causal link between the misconduct and the damage

# The “Redwood” case



# Court of Genoa 24<sup>th</sup> February 2010

## The “*Redwood*” case

### The negligent misconduct

*« the technical expert found a severe – to say the least – negligence of the Classification Society’s surveyors at the time of their survey in India in 2001, as they should not have issued the best classification certificate to the ship »*

# Court of Genoa 24<sup>th</sup> February 2010

## The “*Redwood*” case

### The causal link between the misconduct and the damage

*« There is no commercial communication in the maritime field that does not connect the name of the ship, her class and the relevant Classification Society; in this way the receiver of the communication is immediately aware of the ship's essential qualities and can therefore understand if the price requested for her use or purchase is adequate »*

# Court of Genoa 24<sup>th</sup> February 2010

## The “*Redwood*” case

### The «wrongful» damage

*« it affected the right to freely determine the contractual activity »*

# Court of Appeal 8<sup>th</sup> July 2014

## The “*Redwood*” case

The Classification Society can be hold liable towards the purchaser or charterer or underwriter if and where the damaged party manages to prove the following:

- i. that the certificate issued by the Classification Society was misleading and/or wrong and/or not in line with the status of the ship at the moment of the inspection
- ii. that the damaged party was aware of the class assigned to the ship before making the purchase
- iii. that the decision to purchase the ship was made on the basis of the certificates issued by the Classification Society