

BIBLIOGRAPHIE

**Dr. GÜLÖREN TEKİNALP: MARITIME LIEN IN TURKISH
PRIVATE INTERNATIONAL LAW İSTANBUL ÜNİVERSİTESİ
PUBLICATIONS, No. 249, İSTANBUL, 1967, p. 105**

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Conflict of laws arising from maritime law is one of the developing areas of Turkish Private International Law. Through this study Dr. Tekinalp has joint to the first examiners of International Maritime Law. The book consists of three parts besides an introduction and a selected bibliography especially of German writers.

In Introduction, she qualifies the legal nature of maritime lien under the Turkish Commercial Code. She points out the problem such as that, whether maritime lien has a proprietary nature or it has that of contractual. In fact under the Turkish Commercial Code maritime lien creates a statutory lien which gives proprietary rights to the right owner. On the other hand it guarantees a credit born from a contractual relation. The author indicates that, there was not a consensus among Turkish and foreign writers on the nature of maritime lien. Then she exist at the same time.

The author stresses on the doctrine which is about balancing the conflicting interests in a case concerning Private International Law. This doctrine is favored especially by Kegel in Germany and also by many jurists in England and in the United States. According to this doctrine the conflicting interest which is to be balanced can be either the interest of the security of the transaction or the interest of the parties or the interest of the state etc. The author favors the application of the doctrine in solving the problems of the choice of law though with certain limitations. But the book lacks the sufficient explanations on the criteria and limits of the doctrine.

In Part I, Lex Rei Sitae is accepted as governing the maritime lien itself. The author discusses and admits the Lex Rei Sitae principle for Turkish Law. In cases when a definite Lex Rei Sitae can not be determined like high seas, the common national law is to be applied. If there is not a common national law then the Lex Fori will be applied. But the validity of the contractual relation which creates a

maritime lien is subject to the law which governs the obligation and not to the *Lex rei Sitae*.

In Part II, the choice of law problem on the priority of different maritime liens and the problems arising from the change of the situs of the vessel are studied.

Part III, contains the creation and the termination of maritime lien under the choice of law principles.

I hope the book will help much to Turkish Maritime Law with respect of International relations.

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