



TURKISH ARREST RULES IN PRACTICE

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ÖZKAN LAW OFFICE



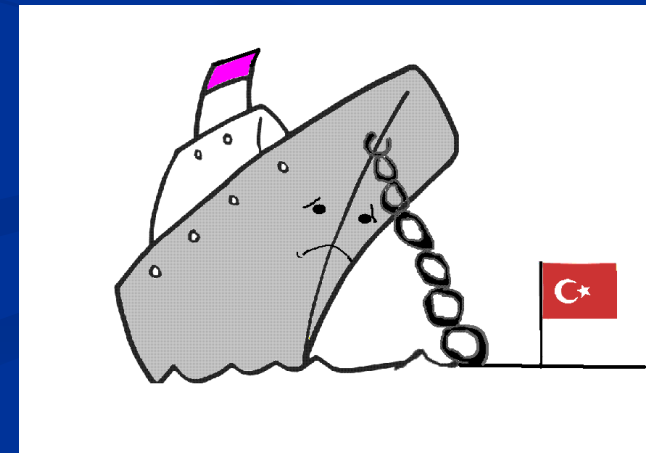
BLACK SEA/KARADENİZ/CHORNE MORE/MAREA NEAGRA/SHAVI ZGHVA

1-) Jurisdiction

- specific rules of jurisdiction for arrest:

Exclusive jurisdiction of the court at the port of call or place of anchorage or berthing or mooring or drydocking (For Turkish flag vessels, the courts at the place of registry of the ship)

- Arrest order may be enforced until the vessel leaves Turkish territorial waters



Turkish Arrest Rules

2) Countersecurity

- fixed: 10.000SDR
- to be lodged along with the arrest application
- may be increased or decreased by the court later upon the objection of the parties

Turkish Arrest Rules

3) Claims in respect of which a ship may be arrested

Evidence on two matters is sufficient:

- Amount of the claim
- Any of the 22 maritime claims listed in the New TCC

“maritime claims”: (same as Article 1 of the International Convention on the Arrest of Ships 1999.)

- a) loss or damage caused by the ship
- b) loss of life or personal injury
- c) Salvage
- d) damage to environment
- e) wreck removal
- f) any agreement relating to the use or hire of the ship
- g) any agreement relating to the carriage of goods on board
- h) loss of or damage to goods carried
- i) general average
- j) towage
- k) pilotage



Turkish Arrest Rules

- l) provisions, bunkers, equipment supplied or services rendered
- m) construction, repair, etc
- n) port, canal, dock, harbor and other waterway dues and charges
- o) crew wages
- p) disbursements incurred on behalf of the ship or its owners, *including the loans obtained for the vessel*
- q) insurance premiums
- r) any commissions, brokerages or agency fees
- s) any dispute as to ownership or possession of the ship;
- t) any dispute between co-owners of the ship as to the employment or earnings of the ship
- u) a mortgage or a "hypothèque" or a similar charge
- v) any dispute arising out of a contract for the sale of the ship.

Turkish Arrest Rules

4) Ships that may be arrested

a. “that ship”

- Owner of the ship must be the debtor
«registered owner» is to be checked
- New TCC not refer to “demise charterer”

b. “any other ship” of the debtor



5) Procedure for arrest

- Arrest application before the competent court with jurisdiction
- Evidence of claim
- Notarized and legalized POA
- Ex parte application
- Arrestor must apply to the Bailiff Office within 3 working days
- To be enforced by Bailiff Officer immediately



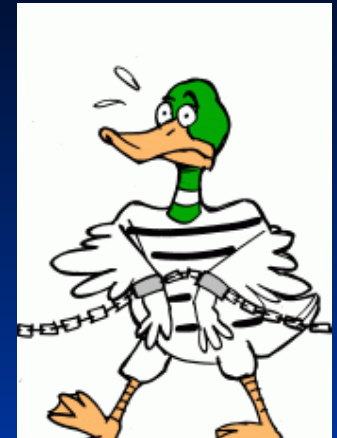
Turkish Arrest Rules

5) Procedure for arrest (cont)

- arrest order is served by the Bailiff
- Harbor Master, coastal safeguard and customs authority, Ship Registry (Turkish flag ships), relevant diplomatic consulate of the flag state (foreign flag ships) are notified
- action in merit to be filed within one month



Turkish Arrest Rules



6) Procedure for release

- Against security covering the claim + interest accrued + costs
- Type of security may be agreed by the parties: P&I letters may be possible
- Based on an objection (if arrest order is given ex parte)

Turkish Arrest Rules

7) Jurisdiction for the Action in Merits

- Action in merits to be filed within one month before the competent tribunals
- Possible to file arbitration or court action before foreign courts or arbitral tribunals
- Arrest confers jurisdiction in merits of the claim for the court that has issued the arrest order

8) Damages for wrongful arrest

Damages if the action in merit is lost

Pontus Axeinus vs Pontus Euxinus (Inhospitable Sea vs Hospitable Sea)



Спасибо!!!



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