

MARITIME PRIVILEGE RIGHTS in Egyptian Maritime Commercial law No . 8 / 1990

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Egypt did not ratify the Brussels Accord on April 10, 1926, about the unification of some rules of the privilege rights and the maritime mortgages, through it included them into its internal legislation of the law No. 35 / 1951 about the privilege rights and the maritime mortgages. Then the new maritime commercial law is issued following the same standard of the law No. 35/1951, that organizes the privilege rights on the ship in Articles from 29 to 40.

What are the privilege Rights levied on the ship ?

Article 29 of the Maritime commercial law mentioned the privilege rights as: “.... the privilege rights exclusively are ...” Then it numerated six groups of privilege rights arranged according to its priority on the ship , excluding other privilege rights cited in the civil law or other laws . These privilege rights are :

a. Privileges of the first class:

these are represented- according to section one of the Article above - mentioned in: “ juridical expenses spent on the sale of the ship and the distribution of its price”.

b. Privileges of the second class:

These are represented - according to section two of the Article above - mentioned - in” : duties and taxes due to the state or to a person of the public law and dock dues for charge and discharge , guidance , trailing , security , maintenance and other maritime services in the port” .

c. Privileges of the third class:

These are represented - according to section three of Article 29 Maritime - in: “debts resulting from the labor contracts of the shipmaster , the shipmen and others who are related to the ship through labor contracts.”

d. Privileges of the fourth class:

These are represented-according to section four of the Article above - mentioned- in: “rewards due for rescues and the share of the ship in compound losses”.

e. Privileges of the Fifth class:

These are represented - according to section five of the Article above- mentioned - in : “compensations due for collision or pollution etc . of the navigation accidents, compensations for damages to the ports , docks or navigation paths equipments, compensations for physical injuries that may occur to passengers, shipmaster and shipmen , and compensations for the destruction and deterioration of the goods and luggages” .

f. Privileges of the sixth class:

These are represented - according to section six of Article 29 Maritime - in : “debts due for the contracts the shipmaster concluded and the operations he performed out of the port of registering the ship within his legal authorities for actual needs of maintaining the ship or continuing his trip , whether the shipmaster is the owner of the ship or not , and whether the debt is due to him , to the entrepreneur of the supplies , to the creditors,

to the persons who repaired the ship or to other contractors , and the debts of the equipper (owner) for the works performed by the ship agent in accordance with Article 140 of this law.”

In brief, the maritime legislator limited the privilege rights in six groups according to its priority , wherein the creditor of the first class privilege precedes the creditor of the second class privilege . etc . , when the creditors of privileges precede the creditors mortgages of the ship .

At last , Article 30 of the maritime commercial law states that : “ ... the privilege rights will not be subject to any official procedure or any special term of proof .”

What is the place of Maritime privilege ?

The maritime privilege rights depend on the maritime wealth of the equipper that comprise the ship , the special charter trip within which the debt arises . It comprises also the appendices to the ship and the acquired transport fees since the ship started its trip (Art . 31 / 1) .

How will the maritime privileges concerning several trips or one trip be Arranged?

a. The Arrangement of maritime privilege Right concerning several trips:

The legislator arranged the maritime privilege rights following the German theory that decides that each trip of the ship forms a legal group by itself with , its specific rights and obligations . Each group precedes its previous one. Thus, Article 35 / 1 Maritime states that : “ The privileged debts arising from any trip precedes the privileged debts arising from a previous trip” .

Despite that , there is an exception to this rule concerning the debts arising from one maritime contract for multiple trips ; as all debts arising from this contract are equal in class to the debts of the last trip , whether be they arisen from previous trips or from the last trip (Art . 35 / 2) .

b. The Arrangement of maritime privilege Rights concerning one trip:

In this context the legislator adopts the Latin theory. Thus, the privileged rights that arise within one trip will be arranged according to the order of the six classes previously mentioned in detail, I. e. in accordance with the sections of Article 29 (Art. 34/1). Within each class of the six the privileged rights compounded in one class are equal, and the distribution among them is carried out according to the value of each (Art. 34/2).

Despite that, there is an exception to this rule concerning the privileged rights mentioned in the fourth and the sixth classes . These debts are arranged in accordance with the reverse order of the date of their arising, wherein the last right in date precedes the precedent right, though they are of one group (Art. 34/3). But it is certain that the debts concerning one accident are considered arising in one date without considering the date of arising these debts (Art . 34 / 4) .

What are the Effects of the maritime privilege ?

The maritime privilege right decides that the privileged creditors has the right to precede other creditors following him in class ; therefore , he precedes the other creditors mortgages of the ship in accordance with Article 50 Maritime that tells that : “ the mortgage is next in class to the privilege ...” 50 , the maritime privileges precede in class the maritime mortgage . On the other hand, the maritime privilege gives the privileged creditor the right of tracing , I . e . tracing the ship whatever hand may lay hold on it (Art . 36) .

What are the causes of the maritime privilege lapse ?

Privilege, as a characters tie of the debt terminates by the lapse of the debt according to the public rules. In addition to that, the maritime commercial law decides that the privilege terminates when the ship is compulsory sold, optionally sold under certain conditions (Art. 37), and by obsolescence (Art. 38).

This article provides for a general overview only and must not be relied upon as constituting advice in any specific case. Advice should always be sought before taking steps in proceedings- For Further information pls. Contact Mr. U. Soliman