

Dr. Nüsret & Mrs. Semahat Arsel International Business Law Research Center

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Tankut Centel

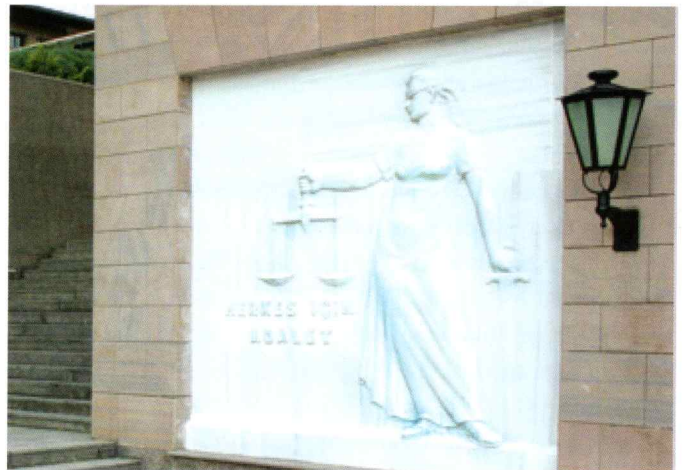
With their significant financial contribution in 2005, Dr. Nüsret Arsel and Mrs. Semahat Arsel have made it possible to establish the International Business Law Research Center at Koç University Law School. The main purpose in establishing the Center was to research and study within the auspices of Koç University issues that are relevant to international trade law. Indeed, it is crucial to provide guidance to Turkish companies that compete in international markets and ensure that they are not left behind, given developments in the global financial markets. Accordingly, the ability to succeed in the global economy depends primarily on the capacity to compete. In fact, companies that are unable to compete efficiently are destined to eventually become obsolete. On the other hand, institutions that further develop their ability to compete have the chance to succeed. Consequently, the research and development of international trade standards is of great importance to our country.

Main Events

The International Business Law Research Center has hosted three main events so far: The first was an international seminar on the civil and procedural law systems of Southeastern European countries that was held in partnership with the Hamburg-based Max Planck Institute on Comparative and International Private Law between May 9-10, 2008. The legal systems of countries including Greece, Bulgaria, Romania, Ukraine, and Turkey were discussed in depth, especially with respect to private law [for the papers presented, see Ansay/Basedow, Structures of Civil and Procedural Law in South Eastern European Countries, Berlin 2008, p. 7 et seq].

The International Business Law Research Center has also organized scientific events focused on recent legislation. First, the Center hosted a seminar on July 7, 2008 on European private international law and Turkey's Law no. 5718 concerning Private International

Law and International Civil Procedure. The main goal of the seminar was to better understand the situation in European countries and the newly passed Law no. 5718. With the participation of international legal experts, the laws of France, Germany and Switzerland were first discussed; then, the provisions of Law no. 5718 were explained by Turkish legal experts. It was determined that Law no. 5718 constitutes a rather significant step.



In fact, until 1982, problems of private international law in Turkey were dealt with through a provisional law that was passed during the Ottoman Empire and consists of a few sections. However, the 1982 Act on Private International Law and International Civil Procedure no. 2675, included rather detailed rules on international conventions and trade law. In addition, it was determined during the seminar that new regulations that were created by directly translating international texts will help develop uniform legal applications with foreign states (European countries) in the future. [see for details Tuğrul Ansay, The New Turkish International Private Law and Civil Procedure, in: Güncel Hukuk, Issue: 10-58 (October 2008), p. 37].

The Center, which closely follows developments in trade law in our country, recently decided to study the Draft Turkish Commercial Code. Accordingly, a seminar was held on March 19, 2009 on “The Draft Turkish Commercial Code and Business Associations”, meant to provide a general introduction to the draft commercial code. The seminar featured as its speaker Dr. Ünal Tekinalp, who has presided over the Draft Turkish Trade Law Commission since the outset.

In the first part of the seminar, Dr. Tekinalp outlined the draft's main goals and most important sections. In particular, he discussed differences between applications in European Union countries and the United States, as well as those sections adopted by the Draft. As for the second part of the seminar, Dr. Tekinalp discussed developments in business associations. Among them, Dr. Tekinalp particularly focused on the “sole partner corporation” that is being considered. Under current law, an entrepreneur with capital who wants to own a corporation must allot small shares to other people in order to establish the corporation. The “sole partner corporation” would eliminate this requirement.

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Official discussions on the Draft Turkish Commercial Code have begun, and it is expected to become effective after the March local elections. During the lengthy enactment process, the views and criticism of different interests have been considered [for the main comments, see Erdoğan Moroğlu, Türk Ticaret Kanunu Tasarısı ile Yürürlük ve Uygulama Kanunu Tasarısı Taslağı (The Draft Turkish Commercial Code and the Draft Law of Enactment), Ankara 2006, p. 5 et seq]. Accordingly, the amendments to the Code of Obligations that are currently on the parliamentary agenda must be compatible with the changes to the Turkish Commercial Code.

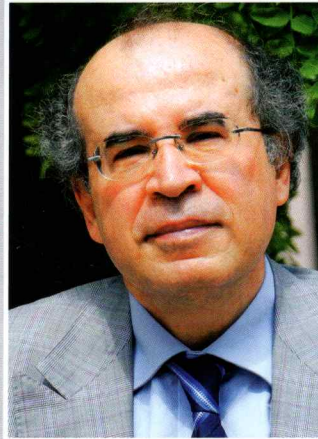
On the other hand, the Turkish Commercial Code has evolved in small yet important ways over time. However, those changes are not sufficient to meet the societal needs that have developed. Indeed, in its quest to become a European Union member, Turkey must consider EU standards. As a result, developments in the Draft Turkish Commercial Code are sure to continue to unfold in the near future. It is also obvious that the discussions will require

further changes to be introduced. Thus, the International Business Law Research Center will continue to conduct research and host seminars on this topic.

Furthermore, the International Business Law Research Center plans to work with the Istanbul Bar Association. The Center has already decided to arrange two important meetings. One of them will be on the application of EU law principles to non-member states, their validity and lawyers' free movement within EU countries. Given the recent Soysal case, the ability to provide services without being required to obtain visas has become a topic of current debate. According to the ruling, it might be possible for Turkish lawyers to extend their services within the European Union without being subject to visas.

As for the second project with the Istanbul Bar Association, developments in air law in Europe and Turkey will be discussed. This meeting will involve one of few scientific and detailed discussions on the problems of air transport.

Considering all these developments, the Dr. Nüsret & Mrs. Semahat Arsel International Business Law Research Center will focus on problems of trade law with respect to land and air transport, an area that has become increasingly important in recent years, as well as private law relationships.



Prof. Dr. Tankut Centel received his B.A. from the Faculty of Law, Istanbul University in 1974. He joined the same Faculty as a research assistant in 1976. Dr. Centel completed his graduate study at Istanbul University (Ph.D., 1980). He became an

associate professor in 1986 and full professor in 1993 at the Faculty of Law, Istanbul University. Professor Centel was the Dean of the Faculty of Law, Istanbul University during 1999-2008. He has been acting since 1995 as advisor for the Turkish employers in the ILO's Conference Committee on the Application of Standards. Since September 2008, he is teaching at Koç University where he is currently the Dean of the Law School.