

**Assoc. Prof. Dr. NİL KULA DEĞİRMENÇİ**

**MARITIME LAW  
IN  
TURKEY**

**onikilevha**  
ONİKİLEVHA YAYINLARI

## **Content**

Content .....	VII
List of Tables.....	XV
List of Annexes.....	XVII
List of Abbreviations .....	XIX
List of References .....	XXIII
§1. Introduction .....	1

### **Part I**

#### **General Overview on Maritime Law in Turkey**

§2. Classification of Law of the Sea .....	3
§3. Uniformity of Maritime Law.....	4
§4. Management of Maritime Transportation.....	8
§5. Sources of Maritime Law .....	10
I. Related International Conventions and Turkish Commercial Code .....	11
II. Related Codes.....	16
III. Related By-laws and Regulations .....	19

**Part II**  
**Main Subject of Maritime Law: Ship**

§6. Legal Importance of Ship.....	21
I. Definition of ‘Ship’ .....	21
II. Parts of Ship .....	23
III. Classification of Ship .....	24
IV. Legal Nature of Ship and Its Loss .....	26
V. Discriminating Facts of Ship .....	27
A. Name .....	27
B. Tonnage .....	28
C. Nationality.....	28
1. Right to Fly the Turkish Flag.....	29
2. Exceptions to the Right to Fly the Turkish Flag .....	30
3. Ship Certificate and Flag Certificate.....	31
4. Loss of Right to Fly the Turkish Flag .....	33
5. Penalties.....	33
6. Cabotage.....	34
D. Home Port.....	35
§7. Ship Registers .....	35
I. Turkish National Ship Register.....	35
A. Legal Characteristics of the Records.....	36
B. Registration .....	38
C. Amendment .....	40
D. Cancellation .....	41
II. Turkish International Ship Register.....	43
III. Register for Ships under Construction.....	46
IV. Home Port Log.....	48
§8. Ship Ownership.....	49
I. Acquisition of Ownership.....	50
A. Original Acquisition.....	50

1. In Terms of Registered Ships.....	50
2. In Terms of Unregistered Ships.....	51
3. In Terms of Ship Shares and Partnership Shares.....	52
B. Derivative Acquisition.....	52
1. In Terms of Registered Ships.....	52
2. In Terms of Unregistered Ships.....	53
3. In Terms of Ship Shares and Partnership Shares.....	54
II. Loss of Ownership.....	55
§9. Ship Mortgage.....	57
I. Creation.....	57
II. Types of Ship Mortgage.....	58
III. Scope of the Ship Mortgage.....	60
IV. Amount of the Secured Claim.....	61
V. Termination.....	61
§10. Maritime Liens.....	62
I. Maritime Claims.....	63
II. Property Subject to Maritime Liens.....	64
III. Scope of Security.....	65
IV. Priority of Maritime Liens.....	65
V. Assignment and Subrogation.....	66
VI. Termination.....	66

### Part III

### Main Actors of Turkish Maritime Law

§11. Owner.....	69
I. Definition of Owner.....	69
II. Liabilities of Owner.....	70
A. Liability for Own Acts and Omissions (TCO art.49 and art.112).....	70

B.	Liability for Servant’s Acts and Omissions (TCO art.66 and art.116).....	71
C.	Liability for Seamen’s and Pilots’ Faults (TCC art. 1062, para.1) .....	72
D.	Liability for Legal Transactions Performed by the Master (TCC art. 1103 and art. 1104).....	74
E.	Liability for General Average Contribution (TCC art. 1274).....	75
F.	Liability for Faulty Collision and Salvage Reward (TCC art. 1288 and art. 1306, para.1).....	75
G.	Liability for Marine Pollution (Code on Environment art.28; TCC art.1336) .....	75
III.	Limited Liability of Owner .....	76
§12.	Shipping Partnership .....	82
I.	Formation .....	82
II.	Management .....	82
III.	Termination .....	85
§13.	Charterers .....	86
§14.	Master .....	87
I.	Duties of the Master .....	88
II.	Authorities of the Master .....	90
III.	Liabilities of the Master.....	91
§15.	Seamen .....	91
§16.	Carrier.....	96
I.	Maritime Carrier under International Conventions.....	97
II.	Maritime Carrier under TCC.....	106
A.	Liability for Providing Unseaworthy, Unvoyageworthy and Uncargoworthy Ship (TCC art. 1141).....	112
B.	Liability for Loading Cargo to Another Ship (TCC art. 1150).....	113
C.	Liability for Carriage of Cargo on Deck (TCC art. 1151) ..	114
D.	Liability for Unlawful Deviation (TCC art. 1220) .....	115

E. Liability for Breach of Exercising Duty of Care for the Cargo (TCC art. 1178).....	116
1. Basis of Liability .....	116
2. Examination, Notification and Time Bar.....	118
3. Exemption from Liability.....	121
4. Limitation of Liability.....	125
F. Liability for Acts and Omissions of the Actual Carrier (TCC art. 1191) .....	128
G. Rights of the Carrier.....	129
1. Right to Demand Freight .....	129
2. Right to Exercise Retention.....	131
3. Right of Recourse .....	132
§17. Transport Intermediaries.....	133
I. Freight Forwarder.....	133
II. Agency.....	136
III. Broker .....	139
§18. Cargo Interests.....	139

## Part IV

### Maritime Contracts and Related Documents

§19. Bareboat Charter Contract.....	141
I. Form of the Contract .....	142
II. Parties of the Contract.....	144
III. Rights and Obligations of the Parties .....	144
A. Rights and Obligations of the Leasor .....	144
B. Rights and Obligations of the Bareboat Charterer.....	146
IV. Time Bar .....	147
§20. Time Charter Contract.....	148
I. Form of the Contract .....	149
II. Parties of the Contract.....	149

III. Rights and Obligations of the Parties .....	150
A. Rights and Obligations of the Assignor .....	150
B. Rights and Obligations of the Time Charterer .....	151
IV. Time Bar .....	153
§21. Contract of Affreightment .....	153
I. Classification: Voyage Charter Contract vs. Contract of Carriage.....	155
II. Form of the Contract .....	156
III. Execution of the Contract of Affreightment .....	156
A. Loading.....	157
1. Usage of the Determined Ship .....	157
2. Preparation of the Ship for the Voyage.....	158
3. Notice of Readiness .....	160
4. Liabilities of Shipper and Consignor Related to Loading.....	162
5. Laytime for Loading .....	163
6. Demurrage for Loading .....	166
B. Discharging .....	168
1. Notice of Readiness .....	168
2. Laytime for Discharge.....	169
3. Demurrage for Discharge .....	170
IV. Finalization of the Contract of Affreightment.....	172
A. Termination by the Parties to Contract of Affreightment	173
1. Termination by the Carrier.....	173
2. Termination by the Shipper .....	174
3. Impossibility of Fulfillment .....	175
B. Through the General Provisions of TCO .....	178
C. Invalidity in accordance with the Provisions of TCC .....	178
1. Loss of the Ship .....	178
2. Loss of the Cargo.....	180
V. Time Bar .....	181

---

§22. Bill of Lading.....	181
I. Functions of Bill of Lading.....	183
A. A Tool for Proving .....	183
B. Represents the Title of the Cargo.....	185
II. Types of Bill of Lading .....	186
III. Presumptions that Stand under Bill of Lading.....	187
IV. Letter of Guarantee .....	190
V. Time Bar .....	192
§23. Other Transport Documents .....	192

**Part V**  
**Marine Accidents**

§24. General Average.....	195
I. Definition and Components of General Average .....	196
II. Types of General Average .....	197
III. Debtors of General Average.....	198
IV. Adjustment of General Average.....	199
V. Time Bar .....	201
§25. Collision.....	201
I. Definition and Components of Collision .....	202
II. Types of Collision.....	203
A. Faultless Collision.....	203
B. Faulty Collision .....	203
III. Evidence of Collision .....	204
IV. Time Bar .....	205
§26. Salvage .....	205
I. Definition and Components of Salvage.....	206
II. Salvage Contract .....	207
III. Salvage Reward .....	208



IV. Special Compensation ..... 212

V. Obligations of the Parties .....214

VI. Salvage of Persons.....214

VII. Time Bar ..... 215

§27. Conclusion.....217

ANNEXES ..... 221