

DEFINITION OF DIFFERENT LAW CONCEPT: AN INTERNATIONAL OUTLOOK

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Abstract

Private law is all of the legal rules that issue the relationships of persons with each other, in other words “relationships among equals”. Like “Public Law”, “Private Law” is an upper concept and divides into several legal branches. The branches of Private Law are made up Civil Law, Commercial Law and Private International Law. Civil Law is all of the legal rules that issue all actions and behaviours, operations and relationships of persons that present a judgment and value in terms of living socially. Commercial Law is the legal rules that issue “commercial relationships” between persons. Private International Law consists of legal rules that issue which country’s law is enforced for private law relationships among persons that are members of different countries and do not have the same nationality, and the nationality of persons and things

Keyword: Law, Civil law

1- CIVIL LAW

It is the law that issues individuals’ personal status and relationships from their birth to death. Its source is the Code of Obligations, dated the same as Turkish Civil Law dated 1926. The Civil Law consists of 4 parts. Also, there is a preamble.

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The Civil Law divides into 5 categories

- A. CODE OF OBLIGATIONS**
- B. LAW OF PERSONS**
- C. FAMILY LAW**
- D. INHERITANCE LAW**
- E. LAW OF PROPERTY**

- 1. LAW OF PERSONS:** It issues the types, capacities, parentage, domicile, beginning and termination of personality.
- B. FAMILY LAW:** It issues the family relationships. Engagement, marriage, divorce, guardianship, lineage, custody, the relationship of child with mother and father.
- C. INHERITANCE LAW:** it issues the matters regarding heritage. The person who leaves a legacy is called DECEASED. The person who inherits is called heir. All goods which are inherited are called estate.
- D. LAW OF PROPERTY:** It is the part of the Civil Law which issues the rights and powers of persons on properties and conflicts which arise from that. The issue of the law of property substantially CONSISTS OF REAL RIGHTS.

Real right: It is the right that vests the broadest power on property to its owner and is asserted against everyone.

2. **CODE OF OBLIGATIONS:** It issues debt-credit relationship between persons. It can consist of three sources between persons.

OBLIGATION;

1. Legal act, for example: contract
2. Tort, for example: homicide
3. Unjust enrichment, disappearance of the reason of something that you gave, for example: Breach of engagement.

A debt-credit relationship consists of CREDITOR+DEBTOR+OBLIGATION.

OBLIGATION is subject or thing that the debtor is liable at avoiding to give, do or perform.

3. **COMMERCIAL LAW**

It issues the trade between persons.

Commercial law consists of 5 parts. **COMMERCIAL LAW:**

- A. **LAW OF COMMERCIAL ENTERPRISE**
- B. **COMPANY LAW**
- C. **MARITIME LAW**
- D. **INSURANCE LAW**
- E. **LAW OF COMMERCIAL PAPERS**

Commercial law consists of 1564 articles.

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4. **LAW OF COMMERCIAL ENTERPRISE**

Turkish commercial law depends on company basis.

Commercial enterprise: Business, factory or other establishments that are operated commercially are called commercial enterprise.

Trader: The person who operates, even partially, a commercial enterprise pro se is called trader. People except for trader are called craftsman.

5. **COMPANY LAW**

Company (partnership) is a legal entity which is established to realize an aim, in other words; gain a profit and distribute it among parties. In commercial law, four types of company are issued. In addition to them, cooperative also has legal entity and is regarded as company. Cooperative is issued in Cooperative Law. Companies are as follows:

COMPANIES:

1. **GENERAL PARTNERSHIP**
2. **LIMITED PARTNERSHIP**
3. **JOIN STOCK COMPANY**
4. **LIMITED LIABILITY COMPANY**
5. **COOPERATIVE**

1. **GENERAL PARTNERSHIP:** It is the company that is established among real persons to operate a commercial enterprise under trade name, and liability of any partners is not limited because of company debts. **IN GENERAL PARTNERSHIP,**

PARTNERS ARE UNLIMITEDLY AND SEVERALLY LIABLE FOR COMPANY DEBTS.

6. LIMITED PARTNERSHIP: It is the company that is established to operate a commercial enterprise under trade name, and one or some of partners have limited liability for creditors and other partners have unlimited liability. ONE OR SOME OF PARTNERS HAVE LIMITED LIABILITY AND OTHER PARTNERS HAVE UNLIMITED LIABILITY.

UNLIMITED LIABLE; ACTING LIMITED LIABLE; UNLIMITED PARTNER

7. JOIN STOCK COMPANY: Having title, its join stock is certain and shared, is liable for debts within its assets. JOIN STOCK COMPANY IS ESTABLISHED WITH AT LEAST FIVE PARTNERS AND ITC CAPITAL MUST BE AT LEAST 5 BILLION. CAPITAL IS DIVIDED INTO SHARES EACH OF WHICH IS WORTH AT LEAST 500 TL. THE PAPER THAT IS ISSUED TO REPRESENT EVERY SHARE IS CALLED STOCK.

4. LIMITED LIABILITY COMPANY: It is the company that is established under trade name and the liability of partners are limited and the capital is certain. THE NUMBER OF PARTNER CAN BE MINIMUM 2 MAXIMUM 50. THE CAPITAL OF COMPANY MUST BE 500.000.000 TL AT MINIMUM. LIMITED LIABILITY COMPANY CANNOT DO BANKING AND INSURANCE.

8. COOPERATIVES: They are organizations with sliding capital that protect and provide the financial interests of partners, their needs regarding profession and cost of living as mutual assistance, interdependency and warranty. The shares of cooperatives are 0.000 TL minimum and 500.000 maximum.

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3. LAW OF COMMERCIAL PAPERS

Commercial papers: They are deeds which right depends on deed and it is not possible to be deeded or asserted without deed. Commercial papers are as follows:

9. BOND

2. BILL
3. BILL OF EXCHANGE
4. STOCKS
5. DEBENTURE BONDS
6. BILL OF LADING
7. WARE RECEIPT
8. WARRANT

BOND, BILL AND BILL OF EXCHANGE ARE CALLED COMMERCIAL BILL. COMMERCIAL PAPERS ARE DIVIDED INTO THREE CATEGORIES IN THE DIRECTION OF TRANSFER. THE TRANSFER OF COMMERCIAL PAPERS:

1. REGISTERED COMMERCIAL PAPERS
2. ORDER INSTRUMENT

3. BEARER COMMERCIAL PAPERS

REGISTERED COMMERCIAL PAPERS: These are deeds which are registered to someone else.

ORDER INSTRUMENT: These are deeds on which a specific person or someone who is expressed by that specific person is the creditor.

4. MARITIME LAW

It consists of rules of law that issues the operations of goods and passenger transportation by ships at sea.

Ship; Every kind of vessels is called ship which depends on the use according to the assigned aim and the possibility to sail at sea, and is not very small.

Flag: It represents the country to which ship belongs.

Port of Registry: It is the port in which sailings of ship are managed. Register of ship: It is the register that ship is written.

Ship-owner: The person that use his/her ship for maritime trade. Captain: The person who leads ship.

Freight Contract: The contract which is made for goods transportation by sea is called freight contract.

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Freight: It is the charge that is paid for transportation.

1. INSURANCE LAW

Insurance divides into two:

INSURANCE:

1. PRIVATE INSURANCES

2. SOCIAL INSURANCES

A. SOCIAL SECURITY ORGANIZATION FOR ARTISANS AND THE SELF-EMPLOYED (BAG-KUR)

B. SOCIAL INSURANCE INSTITUTION

C. PENSION FUND

Social insurances are obligatory. Assurance policy: It is the document that shows the mutual rights and debts of parties and is given to insurant by assurer. Insurance premium: It is the charge that insurant has to pay to assurer.

Insurance indemnity: It is the indemnity that assurer would pay to insurant as a result of the realization of danger or damage.

PRIVATE INTERNATIONAL LAW

The legal bond that attaches a person to a state is called citizenship and this person is called citizen or subject.

Nationality is gained in two ways.

THE WAYS OF NATIONALITY

1. PRINCIPAL NATIONALITY (AS BIRTHRIGHT)

2. ACQUIRED NATIONALITY: GAINING OF CITIZENSHIP FOR A REASON OTHER THAN BIRTH.

For example, A foreign citizen women that married to Turkish gains Turkish citizenship.

CONFLICT OF LAWS: In the relationships that bears element of foreignness, it shows which country's law should be enforces or which country's court in which conflict would be resolved.